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人权理事会

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巴勒斯坦及其他阿拉伯被占领土的人权状况

独立国际实况调查团关于调查以色列定居点对巴勒斯坦  
被占领土包括东耶路撒冷的巴勒斯坦人的公民、政治、  
经济、社会和文化权利的影响的报告\*

概要

本报告根据人权委员会第 19/17 号决议提交，在该决议中，理事会决定设立一个独立的国际实况调查团，调查以色列定居点对被占巴勒斯坦领土包括东耶路撒冷的巴勒斯坦人的人权影响。

\* 本报告附件不译，原文照发。

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## 一. 导言

### A. 任务

1. 在第 19/17 号决议中，人权理事会决定设立一个独立的国际实况调查团，调查以色列定居点对巴勒斯坦被占领土包括东耶路撒冷的巴勒斯坦人的公民、政治、经济、社会和文化权利的影响。
2. 2012 年 7 月 6 日，人权理事会主席任命了三位高级别专家作为实况调查团成员：Christine Chanet (主席)，Asma Jahangir 和 Unity Dow。

### B. 职权范围和工作方法

3. 调查团成员于 2012 年 8 月在日内瓦举行了第一次会议，并与有关常驻代表团代表和其他相关的利害攸关方举行了会议。调查团根据人权理事会向其赋予的任务授权通过了职权范围。调查团认为，理事会明确指示调查团调查以色列定居点对巴勒斯坦被占领土上的巴勒斯坦人产生的所有人权影响。调查团对任务授权的理解是，它要求调查团在国际人权法和国际法的其他有关体系的法律框架内进行调查。调查团指出，以色列定居点也有其他影响，包括对定居点和以色列居民的影响。
4. 为其工作之目的，调查团对“以色列定居点”的理解是，它包括所有物理和非物理结构和进程，这些结构和进程构成、促成和支持在 1949 年巴勒斯坦被占领土绿线以外(见附件一)建立、扩大和维护以色列居民社区。<sup>1</sup> 调查团未区分“定居点”、“定居区”、“前哨站”或已搭建、设立、扩大和/或征用的任何其他建筑或已征用的任何土地或自然资源。
5. 在“不损害”、独立、公正、客观、审慎、透明、保密、廉正和专业精神等原则的指导下，调查团认真分析了它认为相关和可靠的所有现有资料。
6. 为确保最大限度地获得这种资料，调查团发出了要求提交书面材料的公共呼吁，调查团还与以色列定居者社区的代表直接共享这些资料。作为对上述呼吁的回应，调查团收到了 62 份材料。调查团分析了政府、政府间组织、国际和国家非政府组织、专业团体、学者、受害者、证人和媒体寄来的资料。调查团未收到收到以匿名方式提交的证词或资料。所有收到的信息都作了适当保密处理。
7. 调查团本打算对以色列和巴勒斯坦被占领土进行实地访问，以直接观察实地情况。调查团通过以色列常驻日内瓦代表团向以色列政府提出了五个合作请求。

<sup>1</sup> 其中尤其包括，“隔离墙”(以色列 2002 年以来建造的物理屏障)；检查站、封锁障碍、外环路、隧道和许可证制度；法律制度；商业和工业设施；规划和区划制度。见附件二。

以色列政府未对调查团的请求作出任何回应。调查团感到遗憾的是，以色列政府未作回应，因此，它未能进入以色列和巴勒斯坦被占领土。调查团作了替代性安排，以获得直接和第一手资料，采用的形式是：2012 年 11 月 3 日至 8 日，调查团在约旦与广泛的对话方举行了一系列会议。

8. 在访问约旦期间，调查团就广泛的相关问题听取受到定居点影响并/或在巴勒斯坦被占领土和以色列工作的 50 多人讲述情况并收集了资料。调查团会见了侵犯人权行为的受害者、约旦外交部官员、巴勒斯坦权力机构官员和国际组织和非政府组织以及联合国机构的代表。调查团记录了所有证词。

9. 本报告是调查团对它所收到和收集的所有资料和信息进行审议和分析的结果报告。<sup>2</sup> 调查团指出，一些对话方明确要求不披露其身份。调查团感谢与调查团进行合作的所有各方。

## 二. 适用法律

10. 适用于调查团负责处理的这一问题的国际法律框架主要是由国际人权法和国际人道主义法提供的。

11. 由于加入《公民权利和政治权利国际公约》、《经济、社会、文化权利国际公约》、《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约》、《消除对妇女一切形式歧视公约》、《儿童权利公约》及其《关于儿童卷入武装冲突问题的任择议定书》和《消除一切形式种族歧视国际公约》，以色列有义务尊重、保护、促进和实现在其管辖范围内的所有人的全部社会、经济、文化、公民和政治权利。以色列也受作为国际习惯法一部分的有关国际人权规则的约束。

12. 以色列必须向在其领土上或受其管辖的所有人提供受人权条约保护的權利，除该国合法克减的情况之外。负责监测适用人权条约执行情况的联合国条约机构一贯认为，以色列是其缔约方的条约适用于以色列在巴勒斯坦被占领土上实施的行为。<sup>3</sup> 2004 年，国际法院确认了这一点。<sup>4</sup> 此外，以色列的人权义务适用于和平和武装冲突时期。在武装冲突情况下，这些义务与国际人道主义法一起继续适用，以提供补充和相互加强的保护。

13. 在巴勒斯坦被占领土，军事占领是普遍情况。根据国际人道主义法，作为占领国，以色列受一整套义务的约束，这些义务在 1907 年《海牙章程》和 1949

<sup>2</sup> 欲了解调查团在工作期间进行过磋商的资料来源方名单，请访问：[www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/IsraeliSettlementsInTheOPT.aspx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/IsraeliSettlementsInTheOPT.aspx)。

<sup>3</sup> 如欲了解人权机制结论和建议精选汇编，请访问：[www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/IsraeliSettlementsInTheOPT.aspx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/IsraeliSettlementsInTheOPT.aspx)。

<sup>4</sup> 2004 年 7 月 9 日国际法院关于“在巴勒斯坦被占领土修建隔离墙的法律后果”问题的咨询意见(参见 A/ES-10/273 和 Corr.1)，第 109-113 段。

年《关于战时保护平民的日内瓦公约》(《日内瓦第四公约》)中作了规定。《海牙章程》是《关于陆战法规和习惯的海牙公约》的附件，该公约被视为习惯国际法的一部分；以色列是《日内瓦第四公约》的缔约方。

14. 《日内瓦第四公约》对巴勒斯坦被占领土的适用性已被国际法院明确确立，<sup>5</sup> 并得到人权委员会、人权理事会、安全理事会和大会等机构的承认和一致确认。<sup>6</sup> 根据《日内瓦第四公约》，生活在占领之下的巴勒斯坦人是“受保护的人”，因此，他们是以色列在该公约所载的人道主义法下的义务之焦点所在。

15. 国际人道主义法规定了以色列在以下等方面的义务：巴勒斯坦人作为受保护者的人道待遇和人身完整；尊重其受教育、公正审判、家庭、健康、宗教和工作等基本权利；维护公共秩序和安全；尊重现有法律；尊重和保护不动产和个人财产；管理公共财产，包括自然资源。

16. 《日内瓦第四公约》第 49 条还禁止占领国将其部分平民人口迁移到它所占领的领土。这项禁令已获得习惯国际法地位。调查团指出，以色列在巴勒斯坦被占领土包括东耶路撒冷的定居点违反了这项规定，因此，根据国际法属于非法行为。<sup>7</sup>

17. 在必要时，调查团还考虑了其他国际法框架和原则。在普遍存在的有罪不罚情况下，关于国家对国际不法行为的责任(包括第三国责任)的法律是相关的。根据国际刑事法，可追究构成国际犯罪行为的个人刑事责任。在这方面，2012 年 12 月 3 日，巴勒斯坦向秘书长和安理会寄发了相同函件。援引国际刑事法院《罗马规约》第 8(2)(b)(viii)条，巴勒斯坦指出，“以色列的定居点活动”构成战争罪行，必须追究以色列这种行为的责任。<sup>8</sup>

<sup>5</sup> 同上，第 101 段。

<sup>6</sup> 例请参见：人权委员会第 6(XXIV)、6(XXV)和 2001/7 号决议；人权理事会第 7/18、10/18 和 19/17 号决议；安全理事会第 271(1969)、446(1979)、641(1989)、681(1990)和 799(1992)号决议；大会第 2546(XXIV)、ES-10/2、36/147C、54/78、58/97、ES-10/18 和 66/225 号决议。

<sup>7</sup> 例请参见：2004 年 7 月 9 日的咨询意见，第 120 段；安全理事会第 471(1980)号决议；大会第 3092(XXVIII)、47/172 和 66/225 号决议；人权委员会第 2000/8 号决议；人权理事会第 13/7 和 16/31 号决议；欧盟理事会 2012 年 5 月 14 日第 3166 次外交理事会会议关于中东和平进程的结论。

<sup>8</sup> A/ES-10/573 - S/2012/899。

### 三. 背景<sup>9</sup>

18. 以色列定居点位于 1949 年设定的绿线之外，这些定居点包括东耶路撒冷和西岸 C 区的建筑。《奥斯陆协定》设立了 ABC 三个区域：A 区，大约包括西岸 18% 并包括在巴勒斯坦权力机构完全控制下的巴勒斯坦城市地区；B 区，占巴勒斯坦大部分农村地区的约 22%，在巴勒斯坦文职官员控制之下，以色列军队掌握安全控制；C 区，包括据估算占 60% 的领土，为安全、规划和建设等目的处于以色列的完全控制之下。定居点一般位于巴勒斯坦社会较弱势地区，主要在农村。

19. 调查团获悉，定居者可大致分为三类。第一类由于生活质量原因而迁移，他们在靠近耶路撒冷和特拉维夫定居点居住。第二类是极端正统犹太人，他们占定居者人口的 25% 以上<sup>10</sup>，其所居住的定居点在很大程度上与其他以色列人相隔绝；极端正统犹太人的迁移动机似乎也是经济诱因和廉价住房，一般都住在离绿线较近的定居点。第三类的动机似乎是政治和宗教思想；他们在西岸中央地区居住，往往非常靠近巴勒斯坦社区。

20. 1967 年以来，通过在基本政策文书(基本政策指南)中列入明确规定，建立政府机构和实施具体措施等做法，以色列政府公开领导并直接参与了定居点的规划、建设、开发、合并和/或对其鼓励。这些具体措施包括：(a) 建立基础设施；(b) 鼓励向以色列迁徙的犹太人移民移居到定居点；(c) 赞助经济活动；(d) 通过提供公共服务和开发项目向定居点提供支持；(e) 没收巴勒斯坦人的土地，有些是私人土地，征用土地用于“军事需要”，宣布或将土地登记为“国有土地”，没收土地用于“公共需要”。

21. 公共预算中未列明政府对定居点的投资，这种投资是通过隐性准备金划拨的，以色列公务员委员会前主任 Itzhak Galnoor(1994-1996 年)将这一过程描述为“部分保密”(2007 年)和“政治工具”(2011 年)。政府投资，不包括军事开支，在过去几年有一定波动，据估算，2005 年达到最高峰，总额为 7.958 亿美元。<sup>11</sup>由政府资助的准政府组织，包括世界犹太复国主义组织也向定居点提供资金。

22. 以色列实行了一个政府补贴和奖励计划，向以色列迁徙的犹太人移民移居到定居点并促进其经济发展。定居点已被界定为“国家优先领域”，受益于住房和教育补贴和向工业、农业和旅游部门提供的直接激励措施。

<sup>9</sup> 亦请参见附件一。

<sup>10</sup> Dror Etkes 和 Lara Friedman, “The Ultra-Orthodox Jews in the West Bank”, 2005 年 10 月，可在以下网址参阅：<http://peacenow.org.il/eng/content/ultra-orthodox-jews-west-bank>。

<sup>11</sup> Jeremy M. Sharp, “U.S. Foreign Aid to Israel”, 国会研究服务部报告，2012 年 3 月 12 日，可在以下网址参阅：[www.fas.org/sgp/crs/mideast/RL33222.pdf](http://www.fas.org/sgp/crs/mideast/RL33222.pdf)。

23. 多个消息来源提到了定居点总体规划，包括阿隆计划(1967 年)，德罗布莱斯计划(1978 年)——后来扩大为沙龙计划(1981)——和十万人计划(1983 年)。虽然这些计划从未得到正式批准，但在很大程度上，以色列历届政府都对这些计划采取了行动。调查团注意到一种模式：为定居点制定的计划在政府的政策文书中得到反映并得到实际实施。

24. 第一个定居点于 1967 年 9 月在 Kefar Ezyon 建立。在最初几年中，定居点的设立沿用了一个典型模式。定居者可接触到最高级别的政府官员，利用其对该片土地的感情纽带，鼓励这些官员带头参与建立和扩大定居点，尤其通过为“军事目的”夺取土地。

25. 1967 年 6 月，以色列非法吞并了 70km<sup>2</sup> 土地，将东耶路撒冷和一些附近的巴勒斯坦村庄纳入以色列耶路撒冷市的扩大版图。以色列迅速建起了 12 个以色列“街区”，将附近巴勒斯坦民舍和村庄笼罩其中。然后，在城市边界以外建立了外围定居点，从而切断了该城与西岸其他地区的地理连续性。1970 年代以来，以色列耶路撒冷市政府公开推行“人口平衡”政策，最近见诸于亦被称为“耶路撒冷 2000 年”的市政总体规划。该总体规划要求实现犹太居民占多数的 60/40 的人口平衡。

26. 总理办公室于 2005 年和 2012 年委托进行了关于定居点问题的研究。根据 2005 年报告(Sason 报告)和 2012 年报告(Levy 报告)，政府授权建立和扩大定居点直至 1992 年。报告指出，修建的定居点之后，其后在无政府授权的情况下建造的定居点(“前哨站”)是“在所有人(当局)充分知情的情况下建立的，从政府部长和总理到最低层的执法机构(……)，否认仅有一个目标：抵御各方批评，主要是国际批评”。<sup>12</sup> Sason 得出结论认为，“未经授权的前哨站违反标准程序和善政规则(……)危害法治原则，(因此)，必须采取紧急措施以改变(这种)现实”。<sup>13</sup> 与此相反，Levy 报告的调查结果建议对“前哨站”进行追溯授权。

27. 2005 年 9 月，通过“脱离接触计划”，以色列拆除了加沙地带的 21 个定居点(在西岸拆除了 4 个)，撤离了在这些定居点居住的定居者并撤回了军队，同时对加沙领空保持独家控制并继续在加沙地带水域进行军事活动。在以色列，“脱离接触计划”是作为保持对西岸定居点的控制的一个关键步骤提出的。有人引述前总理阿里埃勒·沙龙的话说：“在‘脱离接触计划’框架内，以色列将加强它在今后的任何协定中都将构成以色列国不可分割的组成部分的那些土地的控制。”<sup>14</sup>

<sup>12</sup> Yehudit Karp, “A harsh indictment”, 《国土报》，2012 年 11 月 27 日。

<sup>13</sup> Talya Sason, “Summary of the Opinion Concerning Unauthorized Outposts”, 2005 年 3 月 10 日。可在以下网址参阅：[www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Summary+of+Opinion+Concerning+Unauthorized+Outposts+-+Talya+Sason+Adv.htm](http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Summary+of+Opinion+Concerning+Unauthorized+Outposts+-+Talya+Sason+Adv.htm)。

<sup>14</sup> Idith Zertal and Akiva Eldar, *Lords of the Land: the War for Israel's Settlements in the Occupied Territories, 1967-2007* (New York, Nation Books, 2007).

28. 1967 年以来,在西岸,包括在东耶路撒冷,在政府授权或未经政府授权的情况下,共建立了大约 250 个定居点。定居者人数估计为 52 万人<sup>15</sup> (东耶路撒冷<sup>16</sup> 20 万人,西岸其余地区 32 万人)。根据以色列中央统计局的资料,在过去十年,定居者人口增长率远高于以色列本身人口的增长率,其年平均增长率为 5.3%(不包括东耶路撒冷),而以色列的增长率为 1.8%。

29. 经过多年的法庭命令, Migron 和 Ulpana “前哨站”的人员于 2012 年撤离。然而,在无政府授权情况下征用巴勒斯坦人私人土地的定居者责任人,在撤离后在附近定居点获得了新住宅。政府支付了这些人的财产转移和新住宅租金。

30. 2009 年 4 月以来执政的政府为巩固和扩大定居点作出了贡献。2011 年期间政府在定居点方面的支出比 2010 年高 38%。<sup>17</sup> 2012 年 11 月 14 日,财政部长 Yuval Steinitz 表示:“我们为 Judea 和 Samaria (西岸)增加了一倍预算。我们做得很低调,因为我们不希望以色列境内或国外的有关方面阻挠这一行动。”<sup>18</sup>

#### 四. 以色列定居点对巴勒斯坦人权利的影响

31. 调查团指出,定居点对巴勒斯坦人的人权影响有多种表现形式和方式。它们相互关联,是一个总体模式的组成部分。本报告的结构意在反映这种现实。

##### A. 自决权

32. 调查团指出,在第 67/19 号决议中,大会重申,“巴勒斯坦国的巴勒斯坦人民对于 1967 年以来被占领的巴勒斯坦领土有自决和独立权”。

33. 在关于该问题的一份报告中,秘书长警告说,占领国以色列不断将其国民转移到被占领土,使巴勒斯坦人民在巴勒斯坦被占领土上的人口和领土存在遭遇风险。他指出,1970 年代以来,以色列已将大约 8%的国民转移到巴勒斯坦被占领土。他还重申,国际法院裁定,建造隔离墙并建立以色列定居点,正在改变巴勒斯坦被占领土的人口结构,从而严重妨碍了巴勒斯坦人民行使其自决权。<sup>19</sup>

<sup>15</sup> 人道主义事务协调厅,“以色列定居点政策的人道主义影响”,2012 年 12 月更新。可在以下网址参阅: <http://reliefweb.int/sites/reliefweb.int/files/resources/ocha%20opt%20settlements%20FactSheet%20December%202012%20english.pdf>。

<sup>16</sup> 人道主义事务协调厅,“东耶路撒冷:主要人道主义关切”,2011 年 12 月更新。可在以下网址参阅: [www.ochaopt.org/documents/ocha\\_opt\\_Jerusalem\\_FactSheet\\_December\\_2011\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_Jerusalem_FactSheet_December_2011_english.pdf)。

<sup>17</sup> Chaim Levinson, “Israeli government spent NIS 1.1 billion on settlements in 2011, reports show”, 《国土报》,2012 年 7 月 31 日。

<sup>18</sup> “Like a thief in the night”, 《国土报》社论,2012 年 11 月 14 日。

<sup>19</sup> A/67/375, 第 12 段。



34. 建立定居点和创建数十个飞地还造成西岸被分割。调查团获悉，与大多数定居点产生的当地影响相比，Ma'ale Adummim 的建立及其扩展产生了更广泛的影响：它切断了巴勒斯坦社区之间的领土连续性。<sup>20</sup> “所建立或规划的”隔离墙如“手指”般深入西岸腹地，将巴勒斯坦人的空间截断并切裂。(……)其“路径有将西岸分割为两个独立区域并将东耶路撒冷与西岸其余地区切断之危险”。<sup>21</sup>

35. 以色列政府对定居点地区有完全的安全和行政控制，并实际控制着巴勒斯坦被占领土的外部边界。完全由以色列定居者代表组成的区域委员会在定居点地区行使规划职能。巴勒斯坦权力机构和当地巴勒斯坦人社区对这些地区的治理、行政和规划都无任何控制。

36. 定居点，包括相关限制，阻碍了巴勒斯坦人对其自然资源的享用途径和控制。秘书长在其报告中指出，巴勒斯坦人对西岸的水资源几乎没有任何控制。<sup>22</sup> 86%的约旦河谷和死海在定居点区域委员会事实上的管辖之下。定居点对矿物开采和肥沃农田进行开发利用，剥夺了巴勒斯坦人对其自然资源的享用途径。

37. 2012 年 12 月，人道主义事务协调厅报告指出，定居点的围建面积仅占西岸的 3%，但事实上，43%的领土划拨给了当地和区域定居点委员会。<sup>23</sup> 大约 15 万巴勒斯坦人在 C 区居住，与 32 万以色列定居者比邻而居。在东耶路撒冷，大约 20 万定居者移入巴勒斯坦人地区，巴勒斯坦人口大约为 39 万人。然而，以色列定居点对巴勒斯坦人民自决权的负面影响扩展至整个巴勒斯坦民族。

38. 调查团认为，巴勒斯坦人民的自决权(包括有权决定如何实施自决权)、在巴勒斯坦被占领土上的人口和领土存在权和对自然资源享有永久主权的权利，显然被以色列通过建立并不断扩大定居点而侵犯。将以色列公民迁移到巴勒斯坦被占领土——国际人道主义法和国际刑事法的禁止行为——是以色列的做法和政策的一个主要特点。

<sup>20</sup> “The Hidden Agenda: The Establishment and Expansion Plans of Ma'ale Adummim and their Human Rights Ramifications”, B'Tselem, 2009 年 12 月, 可在以下网址参阅: [www.btselem.org/download/200912\\_maale\\_adummim\\_eng.pdf](http://www.btselem.org/download/200912_maale_adummim_eng.pdf).

<sup>21</sup> 参见: “Arrested Development: the Long Term Impact of Israel's Separation Barrier in the West Bank”, 2012 年 10 月(可在以下网址参阅: [http://reliefweb.int/sites/reliefweb.int/files/resources/201210\\_arrested\\_development\\_eng.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/201210_arrested_development_eng.pdf)), and “By Hook and by Crook: Israeli Settlement Policy in the West Bank”, B'Tselem, July 2010 (available from [www.btselem.org/download/201007\\_by\\_hook\\_and\\_by\\_crook\\_eng.pdf](http://www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf)).

<sup>22</sup> A/67/375, 第 14 段。

<sup>23</sup> 人道主义事务协调厅, “以色列定居点政策的人道主义影响”(参见脚注 15)。

## B. 平等和不受歧视的权利

### 1. 适用法律方面的不平等和歧视

39. 向调查团提交的资料表明，巴勒斯坦被占领土有各不相同的法律体系，分别适用于以色列定居者和巴勒斯坦人。大体而言，C 区以色列人受以色列国内法约束，这些法律由以色列警察和法院强制执行。由以色列军方命令和奥斯曼、英国和约旦法律构成的混合体适用于巴勒斯坦人，他们也受军事法院系统的管辖，该系统有广泛的管辖范围。

40. 通过将以色列民法“导”入定居点领域，以色列在西岸设立了“法律区”，在“法律区”内，以色列法律适用于定居者，以便，例如，规范定居点内政府机构的地位和权力。这些法律不适用于巴勒斯坦人。其他以色列法律适用于西岸以色列人个体，他们得到优越于巴勒斯坦人的特惠法律地位。一系列军方命令，根据法律或惯例，仅适用于巴勒斯坦人个体，从而对日常生活的大多数方面进行管理和控制，包括通过限制广泛的权利。同样法律对以色列人和巴勒斯坦人的待遇也不相同；例如，一些军事命令将巴勒斯坦被占领土的某些地区定为“封闭的军事区域/地区”。除军事训练或射击区外，只有巴勒斯坦人被禁止进入这些地区，除非他们有许可证，即便是有关地区包括巴勒斯坦人的土地，从而剥夺了巴勒斯坦人对其土地的享有或拥有。所谓的“夹缝地带”对巴勒斯坦人关闭，而以色列人和外国游客可无限制进入。其他一些以色列法律明文歧视巴勒斯坦人。2012 年，消除种族歧视委员会重申了它对《公民资格与以色列入境法(暂行规定)》的关切，除极少数例外，该法使以色列公民与居住在巴勒斯坦被占领土上的人之间的家庭团聚中止，对家庭权造成严重影响。

41. 调查团再次注意到以色列法律对个人的域外适用情况，对西岸的以色列人被指控在西岸所犯罪行适用了以色列刑法。

42. 秘书长指出，以色列定居者对财产和他人实施的各类暴力行为往往都不会追究责任。<sup>24</sup> 当今情况与 1984 年进行的调查所描述的情况十分相似，该调查是由当时的以色列常务副总检察长 Yehudit Karp 领导的，是针对定居者暴力所采取的行动的调查。根据 Yesh Din (一个以色列非政府组织，2005 至 2012 年，该组织对 869 个案件进行了监测)，在针对巴勒斯坦被占领土上的巴勒斯坦人及财产的犯罪控诉的所有已完成调查中，91% 以上的调查未提起公诉即告结束，大多因为调查失败。<sup>25</sup> 定居者针对巴勒斯坦人的袭击和恐吓常常是在光天化日之下进

<sup>24</sup> A/67/375, 第 39 段。

<sup>25</sup> Yesh Din, “The impact of the settlements on Palestinian rights in the West Bank”, 2012 年 11 月，可在以下网址参阅：[www.yesh-din.org/userfiles/file/Position%20Papers/Yesh%20Din%20Position%20to%20UN%20FF%20Mission.pdf](http://www.yesh-din.org/userfiles/file/Position%20Papers/Yesh%20Din%20Position%20to%20UN%20FF%20Mission.pdf)。

行的，而且有以色列军队或警察人员在场，他们经常不阻止暴力或不起作用。即便如此，也无济于事。

43. 调查团获悉，在巴勒斯坦人对定居者实施暴力行为时，这些行为都得到适当处理，这表明，巴勒斯坦人所遭遇的执法不力问题在很大程度上是一个政治意愿问题。在控告巴勒斯坦人的案件中，90%至 95%的案件得到调查并向法院起诉。

44. 不对定居者暴力进行有效调查和起诉阻碍了巴勒斯坦人获得有效补救的途径。法院系统对巴勒斯坦人带来的多重障碍使问题更加严重，这些障碍包括：时间、费用、语言和程序障碍，同时，还有相关命令和声明的通知不当问题。恐惧和对法院缺乏信心也是寻求补救的阻遏因素。在根据 2012 年修订的 2005 年《民事侵权(国家责任)法》寻求以色列国家对其代理人的某些行为的赔偿方面，巴勒斯坦人也受到很大限制。

45. 作为高等法院的以色列最高法院司法并不向巴勒斯坦人提供明确的追诉途径。在定居点相关问题方面，高等法院总是听从以色列政府，并使定居点的合法性问题不可在法庭裁决。虽然法院有时作出有利于巴勒斯坦起诉人的判决，但它在很大程度上限制了自己的监督作用，并提供了定居点可在其中发展的法律空间。此外，在司法裁决有利于巴勒斯坦起诉人的情况下，总是存在执法不力问题。

46. 被占领土上的巴勒斯坦人还遭受对军事法庭系统的歧视性适用，这种做法不符合国际公正审判和司法标准。<sup>26</sup> 一名证人在向调查团作证词时解释说，“两个人在西岸可能犯下同样罪行。一人由西岸警方调查并交由军事法庭审理，在面见法官之前可被关押 8 天。犯了同样罪行的以色列人由文职法官调查和审理，享有现代刑事诉讼程序的所有保障。这两个人面临不同刑罚。巴勒斯坦被占领土的现行法律制度意味着法律面前的极端不平等。

47. 巴勒斯坦人经常受到任意逮捕和拘留，包括行政拘留、大规模逮捕和监禁。据估计，以色列占领以来，有 70 多万巴勒斯坦人，包括儿童，被以色列军方关押，很多人被关在以色列国内监狱中。<sup>27</sup> 2012 年，大约 4,100 名巴勒斯坦人被以色列军方关押，其中 143 人年龄为 16 至 18 岁，21 人在 16 岁以下。<sup>28</sup> 有充分证据表明，军事法院系统不能确保巴勒斯坦人获得基本的公平审判保障，包括独立性、明确的证据或程序规则、推定无罪或听取证人作证或审查所有物证的责任等最低标准。

<sup>26</sup> 参见：CCPR/CO/78/ISR 第 12 段和 CCPR/C/ISR/CO/3 第 7 段。

<sup>27</sup> A/HRC/7/17, 原文第 45 页。亦请参见：B'tselem, “Statistics on Palestinians in the custody of Israeli security forces” (2008 至 2012 年)。

<sup>28</sup> B'tselem, “巴勒斯坦人统计数据” (见脚注 27)。

48. 大多数儿童都是在冲突地点被捕的，例如在靠近定居点的村庄或在军方或定居者使用并由巴勒斯坦村庄管理的公路上。自被捕之时起，通过审讯、任意拘留和虐待、审判和判刑，他们面临对其自由、安全和获得公正审判等权利的多重侵犯。大约 90% 的儿童表示认罪并获判监禁。有证人对调查团作证说，“总之，无论是否犯了罪，承认有罪是摆脱该系统的最快捷方法。” 大约 60% 的巴勒斯坦儿童在以色列国内服刑。<sup>29</sup>

49. 在巴勒斯坦被占领土上实行的法律隔离制度，通过为定居点和定居者建立一个特权化法律空间，使定居点得以建立和巩固。这导致对巴勒斯坦被占领土上的巴勒斯坦人的多种人权的日复一日的侵犯，包括，无可争议地侵犯了其不受歧视权、在法律面前平等权和法律平等保护权。

## 2. 定居者暴力和恐吓

50. 巴勒斯坦人生活的各个方面都受到参与暴力和恐吓的少数定居者的严重影响，其目的是迫使巴勒斯坦人离开他们的土地。关于以下事实的证词具有一致性：在光天化日之下时常发生袭击和恐吓；犯罪人身份人所共知或很易确定；警察和军队经常在现场；定居点保安人员参与事件或在场；经常存在事件视频和摄影镜头；缺乏对暴力的问责。

51. 调查团听取了关于可追溯至 1973 年的定居者暴力和恐吓行为的证词。根据第 446(1979)号决议设立的安理会委员会的一份报告<sup>30</sup> 使人们注意到定居者对财产的袭击和恐吓行为，这些行为使用水途径受到限制并妨碍了儿童上学。该委员会指出，这些袭击的目的是迫使巴勒斯坦人离开这片土地。1980 年以来，定居者袭击导致的巴勒斯坦人死亡和受伤情况得到了记录；调查团注意到，人道主义事务协调厅编制的统计数据表明，2011 年 7 月 1 日至 2012 年 6 月 30 日，以色列定居者使 147 名巴勒斯坦人受伤，其中包括 34 名儿童。

52. 调查团听取了关于定居者实施暴力袭击的大量证词，包括身体袭击，使用刀子、斧头、棍棒和其他简制武器，射击和投掷燃烧瓶。证词还讲述了侵入巴勒斯坦人土地的武装定居者的恐吓行为所产生的心理影响，这些恐吓行为是在巴勒斯坦人的泉水附近或在希伯伦和东耶路撒冷的巴勒斯坦人街区中实施的。在某些案例中，证词描述了针对在定居点附近居住的同一个巴勒斯坦家庭的多年暴力和恐吓，迫使其放弃了自己的财产。

53. 调查团听取了关于定居者暴力对儿童影响的证词；调查团注意到，儿童死亡和受伤趋势上升。在向调查团提交的一份资料中，保护儿童国际巴勒斯坦分部

<sup>29</sup> 参见：保护儿童国际巴勒斯坦分部，“Children prosecuted in Israeli military courts: update”，2012 年 10 月 2 日，可在以下网址参阅：[www.dci-palestine.org/documents/children-prosecuted-israeli-military-courts-%E2%80%93-update](http://www.dci-palestine.org/documents/children-prosecuted-israeli-military-courts-%E2%80%93-update)。

<sup>30</sup> S/13679。

记录了自 2008 年在西岸包括在东耶路撒冷发生的 127 起案件，包括造成 4 人死亡。2010 年以来，定居者对学校的袭击和对上学途中儿童的骚扰呈上升趋势。Al Twany 村的居民所作的证词讲述了儿童不得不靠以色列军队护送上下学，以保护其免遭定居者袭击。以色列军队并不总是提供这种护送，或者，在提供护送时，也经常很不稳定。

54. 调查团还注意到暴力和恐吓对巴勒斯坦农民的生活和生计的影响：通过暴力和恐吓阻止巴勒斯坦人享用靠近定居点的土地；焚烧、铲除和袭击巴勒斯坦人的庄稼；定居者夺取土地并种植自己的作物；在巴勒斯坦人的农地上围起栅栏并建设楼房。橄榄业是巴勒斯坦农民的一个主要收入来源；因此，对巴勒斯坦农民及其作物而言，橄榄收获是一年的特别脆弱时期。<sup>31</sup> 2005 至 2012 年，Yesh Din 监测了 162 项调查，调查针对巴勒斯坦人树木(主要是橄榄树)的故意毁坏行为，只有一项提起公诉。<sup>32</sup> 2012 年数字(截至十月中旬)显示，在此期间，7,500 多棵树木被定居者损坏或摧毁。<sup>33</sup>

55. 调查团听取了关于“索价”袭击的证词，这是被视为与定居者其他形式暴力有所不同的一种现象。这些袭击的目的是，对于定居者视为有悖其利益的任何政治或法律行动，让在定居点附近居住的巴勒斯坦人民付出代价。调查团认为，其意图是阻止以色列当局采取任何被视为有悖定居者利益任何行动，同时激惹巴勒斯坦人作出反应。安纳贾赫大学确认，2008 年至 2012 年 9 月，共发生了 119 起“索价”事件。<sup>34</sup> 这些袭击通常包括故意毁坏和焚烧财产、汽车和房屋，而且袭击者还经常留下乱涂乱写的带有种族主义色彩的图形和字句。美国国务院将三起对清真寺和一个穆斯林墓地的索价袭击定为恐怖主义事件。<sup>35</sup>

56. 调查团感到关切的是，由于以色列当局未能阻止定居者暴力而且由于在这方面持续存在有罪不罚现象，非政府组织不得不设计专门的方案，处理定居者暴力对身心健康的影响。调查团特别关切地注意到儿童的状况和对其发展的影响。

57. 暴力、辱骂、身体虐待、不人道和有辱人格的待遇、强迫迁离、掠夺土地和财产、毁坏财产和房屋以及已收集了证词和资料的许多问题严重影响了可达到的最高标准身心健康权的享受。抑郁、焦虑、症状性紧张、情绪障碍和行为问题

<sup>31</sup> 巴勒斯坦农业部估计，第二次起义以来，共有 350 万棵橄榄树被摧毁。

<sup>32</sup> Yesh Din, “Police investigation of vandalization of Palestinian trees in the West Bank”, October 2012, available from [www.yesh-din.org/userfiles/file/datasheets/DS%20Trees%20Oct,%202012%20Eng.pdf](http://www.yesh-din.org/userfiles/file/datasheets/DS%20Trees%20Oct,%202012%20Eng.pdf).

<sup>33</sup> 人道主义事务协调厅，橄榄收获情况简表，2012 年 10 月，可在以下网址参阅：  
[www.ochaopt.org/documents/ocha\\_opt\\_olive\\_harvest\\_factsheet\\_october\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_olive_harvest_factsheet_october_2012_english.pdf).

<sup>34</sup> 安纳贾赫大学，“Outposts and Price Tag Violence: A Blow upon a Bruise”，2012 年 9 月，可在以下网址参阅：[www.najah.edu/sites/default/files/shared-uploads/outposts\\_and\\_price\\_tag\\_violence\\_-\\_a\\_blow\\_upon\\_a\\_bruise\\_-\\_sept\\_2012.pdf](http://www.najah.edu/sites/default/files/shared-uploads/outposts_and_price_tag_violence_-_a_blow_upon_a_bruise_-_sept_2012.pdf).

<sup>35</sup> 美国国务院，2011 年恐怖主义问题国别报告，可在以下网址参阅：[www.state.gov/j/ct/rls/crt/2011/](http://www.state.gov/j/ct/rls/crt/2011/).

以及创伤后应激障碍是专家所报告的一些最常见状况。有罪不罚、不公正感、事件重演和再遭虐待之预期，尤其是对亲属和子女的虐待，恶化了这些状况。

### 3. 对宗教自由的限制和相关的不容忍现象

58. 在巴勒斯坦被占领土上，耶路撒冷、希伯伦、伯利恒和纳布卢斯都有对于基督教、犹太教和伊斯兰教具有重大宗教意义的场所。虽然定居点的影响在整个西岸地区以多种不同形式展现出来，但调查团注意到，由于其宗教意义，耶路撒冷和希伯伦都是具有特别侵犯性的定居点政策和做法的目标。在这两个城市的市中心都建立了定居点，扰乱了数十万巴勒斯坦人的生活和发展。此外，在耶路撒冷周围和在较小程度上在希伯伦周围，建设了主要的定居点基础设施，将两座城市环绕其中并切断了与巴勒斯坦社会其余部分的社会和经济联系，同时将各个定居点与以色列国领土连接起来。

59. 调查团还获悉，在耶路撒冷老城和周边地区正在进行考古发掘并在此处建设了一个地下隧道网络，包括将塞勒瓦巴勒斯坦人街区的定居点设施与老城连接起来的隧道。据称，这些考古发掘意在强调犹太文化传统，同时忽视(甚或破坏)对该市千年历史作出贡献的其他文化的丰富遗产。

60. 调查团的许多报告称，巴勒斯坦人进入礼拜场所遭到拒绝。检查站的有限放行和在宗教节日期间实行的地区封闭阻止了巴勒斯坦人在指定时间在礼拜场所参加圣礼仪式。调查团还获悉，2008 年以来，清真寺和基督教堂成为索价袭击目标，包括至少 9 起针对巴勒斯坦人清真寺的索价袭击和 21 起使用涂鸦亵渎清真寺、教堂和墓地的事件，在这些事件中使用了种族主义或亵渎神明性质的标语，意图煽动激发紧张局势。<sup>36</sup>

61. 调查团感到关切的是，旨在改变耶路撒冷和希伯伦人口构成的政策和行动在以色列政府的参与下正在实施并产生了恶劣影响，其做法是，在宗教信仰基础上消除文化遗产和重新划定城市边界。调查团还感到关切的是，巴勒斯坦人的宗教自由权受到定居点的限制。

### 4. 土地剥夺和流离失所

62. 在调查团收到的大多数提交材料、报告和证词中都提到了土地剥夺和流离失所。这些资料表明，为夺取巴勒斯坦人土地，使用了许多不同机制，而且，实行了有利于定居点发展的歧视性规划和区划政策，正如消除种族歧视委员会的结论所指出的，这些做法违反了巴勒斯坦人的一系列基本权利。<sup>37</sup>

<sup>36</sup> 安纳贾赫大学，“Outposts and Price Tag Violence”（见脚注 34）。

<sup>37</sup> CERD/C/ISR/CO/14-16, 第 25 段。



63. 自从被占领以来，巴勒斯坦人共有 100 万德南以上的<sup>38</sup> 土地被夺走，这是通过以下两种手段之组合实现的：军事命令和选择性解释在整个奥斯曼时期、托管时期和约旦统治时期管辖土地权属问题的《奥斯曼土地法》。具体而言，土地是通过没收用于军事需求、缺席者财产法和宣布为国有土地等手段夺走的。

64. 被没收的土地归定居点地方和区域委员会管辖，这些土地不仅用于城市化，而且也作为定居点周围的缓冲区或将其转变为巴勒斯坦人不能进入的娱乐和自然景区。

65. 虽然在整个西岸这一问题都很严峻，但调查团注意到，在被确定用于巩固定居点的地区，包括伯利恒周围和 E-1 项目，大量房屋被拆，有很多拆除令、强迫迁出和迁离计划，其目的是，在东耶路撒冷和 Maale Adumim 之间建立一个城市连续体。在该地区，位于 Khan Al-Akhmar 的贾哈林贝都因人社区面临被迫流离失所的威胁，该社区在过去已经历了数次强拆。目前“迁离”计划正在讨论之中，包括将其转移到一个靠近填埋场的地点。1996 年，贝都因人曾因以前的定居点扩张而被迁移至此。

66. 贝都因人群体总体而言特别容易遭受流离失所和土地剥夺。80%的贝都因人生活在约旦河谷、死海地区和希布伦周围，在封闭的军事训练和射击区，他们占人口多数。其中许多社区已经历了多次迁离。很多社区没有粮食安全，不能享用基本服务，未连接到电网、公路网络或供水系统。90%以上的人面临水匮乏，其生活用水仅有世界卫生组织(卫生组织)所定最低标准的不到四分之一。<sup>39</sup> 以色列军队经常摧毁他们的住所和财产，包括援助机构和国际捐助方提供的或在其援助下建设的。在希伯伦南部山丘，八个村庄面临被逐出的风险，以便为一个新射击区腾出地方。

67. 在定居点和夹缝地带附近实施的土地剥夺和迁离进程包括阻止巴勒斯坦人进入自己的农业土地、接管和拆毁泉井、限制行动自由。定居者暴力和恐吓也发挥了重要作用。

68. 在东耶路撒冷，多个因素，例如歧视性建筑条例、大量拆除令、居住许可证限制、严重的住房短缺和来自定居者的暴力和恐吓，对该市的巴勒斯坦居民带来了巨大压力。调查团还得到关于东耶路撒冷的强迫迁离事件的报告，例如在谢赫贾拉街区的迁离案件，包括定居者组织成功申诉后进行的迁离，其中一些申诉与基于 1948 年前所有权的犹太人财产索赔相关。很多证词说，定居者接管了老城内的个人住房。

<sup>38</sup> 一德南等于 1,000 m<sup>2</sup>。

<sup>39</sup> 人道主义事务协调厅，“以色列宣布的西岸‘射击区’的人道主义影响”，2012 年 8 月，可在以下网址参阅：[www.ochaopt.org/documents/ocha\\_opt\\_firing\\_zone\\_factsheet\\_august\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_firing_zone_factsheet_august_2012_english.pdf)。

69. 没有登记证明(1968 年, 军事命令中止了土地登记), 巴勒斯坦人很难获得对保有权或许可证的承认。此外, 巴勒斯坦人被排除于协商决策进程之外, 在特别规划委员会中没有代表, 该委员会由定居者组成, 有权颁发建筑许可证并负责强制执行。

70. 证词确认, 建筑许可证很少甚或从未发放; 在过去 20 年中, 94%的许可证申请被拒绝。根据军事命令, 没有许可证的建筑是一种罪行, 执行拆卸令的同时还要交巨额罚款。在这方面, 调查团听说有“自行拆房”的现象, 即居民拆毁自己的房屋, 以避免被迫缴纳罚款。自行拆房未在拆房统计中记录。

71. 证词证实, 很多巴勒斯坦人被迫在没有许可证的情况下建房, 因而, 他们处于其房屋或财产可能会被拆除的经常威胁之下。许多家庭和整个社区面临流离失所风险。在东耶路撒冷, 33%的巴勒斯坦人的住房没有建筑许可证。仅在东耶路撒冷, 至少 93,100 名居民面临流离失所风险。<sup>40</sup>

## 5. 对行动自由的限制

72. 根据调查团收到的资料, 对巴勒斯坦人行动自由的限制似与定居点直接相关, 包括“以保护定居点、获取地面以利其扩大和改善定居点与以色列本土连接为目标的各种限制。”<sup>41</sup> 这些限制本身有多种形式, 包括定居者专用道路; 检查点和过境点制度(封闭性障碍); 隔离墙、城门和许可证制度所带来的各种障碍; 以及行政限制。人道主义事务协调厅的报告称, 2012 年, 有 540 多次封闭障碍。<sup>42</sup> 虽然最近几年采取了显著的放松管制措施(这些措施改善了巴勒斯坦主要城镇之间的连接), 据报告, 在定居点周围地区, 行动自由限制仍未取消。

73. 调查团注意到, 行动自由限制对巴勒斯坦人出入自己的土地产生不利影响, 并对其工作和谋生能力产生直接影响。许多定居点的外围扩张将巴勒斯坦人的私有财产囊括其中, 这片土地的进出自由通过“事先协调”制度管理: 根据这种制度, 发给巴勒斯坦土地所有者许可证, 他们每年可进入自己的土地一定天数, 通常与收割期相吻合, 并需与以色列当局事先协调。在大约 55 个定居点周围地区, 对拥有土地的大约 90 个社区的巴勒斯坦土地所有者实行了这一制度。<sup>43</sup> 在有些情况下, 事先协调制度也被应用于在未经以色列当局授权情况下被定居者单方面用栅栏隔离的巴勒斯坦人私人土地。在隔离墙及其附近实行了广泛的出入限

<sup>40</sup> 人道主义事务协调厅, “东耶路撒冷: 主要人道主义关切”(见脚注 16)。

<sup>41</sup> 人道主义事务协调厅, 西岸的行动自由和出入自由最新情况, 2012 年 9 月(可在以下网址参阅: [www.ochaopt.org/documents/ocha\\_opt\\_movement\\_and\\_access\\_report\\_september\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_movement_and_access_report_september_2012_english.pdf)), 第 2 页。

<sup>42</sup> 人道主义事务协调厅, “以色列定居点政策的人道主义影响”(见脚注 15)。

<sup>43</sup> 人道主义事务协调厅, “西岸的行动自由”(见脚注 41)。



制，即墙门和许可证制度，特别影响进入夹缝区的农田，而且，如前所述，这些限制仅适用于巴勒斯坦人口(见上文第 40 段)。

74. 以色列将事先协调制度扩展到巴勒斯坦人面临定居者暴力和恐吓的情况。这种应对措施对于防止定居者暴力没有实效，同时给定居者暴力受害者带来了限制进入土地的负担。

75. 调查团注意到，在希伯伦和约旦河谷，行动自由限制方面的歧视特别明显：大量巴勒斯坦居民受到许可证制度的限制，而且，有些地区其车辆不得通行，在有些情况下，行人也不得经过。在希伯伦的 H2 地区，有 123 项行动自由限制，以便利希伯伦的 550 个以色列定居者和附近的基亚特阿巴定居点的 7,000 名定居者，以巴勒斯坦人口(17 万人)为代价。<sup>43</sup> 调查团注意到，这些定居点对巴勒斯坦人的生活产生了直接影响，因为军事命令已导致 512 家巴勒斯坦人企业被关闭，而且，至少另有 1,100 家企业由于客户和供货商与企业的联系限制而关闭。<sup>43</sup>

76. 人权条约机构已对行动自由限制表示深为关切。它们称，这些限制针对某一特定民族或种族群体，构成对经济、社会和文化权利的严重侵犯。<sup>44</sup>

## 6. 对言论与和平集会自由的限制

77. 调查团注意到，Bili'in 和 Nabi Saleh 等地进行的巴勒斯坦人示威中，定居点包括隔离墙是这些示威活动的主题。据报告，在这些示威活动中，绝大部分示威者未诉诸暴力。以色列当局经常采用限制集会的办法对这些示威作出回应，宣布一些地区为封闭军事区并采用暴力手段镇压示威：发射催泪瓦斯、橡皮子弹、有时使用实弹。如同限制行动自由的封闭障碍一样，对言论和集会的限制，其核心目的是确保以色列定居者的日常生活能够不受干扰地继续。<sup>45</sup>

78. 调查团听取了证词，2009 以来，纳比萨利赫(一个 600 人村庄)居民，每周五都进行示威活动，抗议该村泉水被附近的定居者接管。证人详细叙述了以色列军队对和平示威者的暴力袭击，造成一人被打死，400 多人受伤，包括 195 名儿童。据报告，有些时候，在示威活动还未开始之前，军队就制止了示威游行，军队在村内发射催泪弹，迫使所有村民逃离。<sup>46</sup>

79. 调查团获悉，在公开演讲中，对定居点提出批评的以色列政界人士、学者和民间社会行为方的名誉遭破坏。这方面的实例包括，攻击曾在巴勒斯坦被占领土上的以色列军队服役并对定居点官方路线提出异议的老兵。调查团感谢以色列

<sup>44</sup> CERD/C/ISR/CO/13 和 E/C.12/1/Add.69。

<sup>45</sup> A/67/375, 第 40 段。

<sup>46</sup> B'tselem, "Human Rights in the Occupied Territories", 2011 年度报告(可在以下网址参阅: [www.btselem.org/download/2011\\_annual\\_report\\_eng.pdf](http://www.btselem.org/download/2011_annual_report_eng.pdf)), 第 50 页。

民间社会成员在强调由于定居点的存在巴勒斯坦人的人权遭到剥夺方面所作的宝贵贡献。

## 7. 对用水权的限制

80. 资料和证词确认了定居点扩张对巴勒斯坦人用水权的影响，包括经济、社会和文化权利委员会等机构所指出的，在为巴勒斯坦人和定居者分配的水资源方面的存在很大差异，而且用水途径也不公平。

81. 巴勒斯坦水务局开发新的水资源的能力受到《临时协议》所规定的水务管理安排和该协议所设立的联合水务委员会的阻碍，在该委员会中，“根本性的权力、能力和信息不对称”使以色列在西岸水资源分配方面具有支配地位，并将这些资源抽走 90%。<sup>47</sup> 调查团获悉，该委员会否决了很多巴勒斯坦项目。在 C 区，还另需得到以色列民政当局的批准，即使是水井或雨水集水池之类的小型项目也需如此。

82. 由于领土的分割状况，巴勒斯坦水务局将水调至缺水地区的能力受到严重制约，因为几乎每个项目都意味着需要经过 C 区。调查团收到的证词称，水资源由于隔离墙的建造遭到破坏或摧毁，或者流失到夹缝区，将村庄与其水井、泉井和蓄水池隔断。在约旦河谷，Mekorot 公司(以色列国家水务公司)和 Mehadrin 公司(一家农产品工业公司)的深水钻探造成巴勒斯坦水井和泉井枯竭。以色列和定居点消耗了在该地区钻探的水资源总量的 80%。

83. 巴勒斯坦水资源供水短缺已导致 C 区巴勒斯坦社区长期缺水和对 Mekorot 公司的依赖；1982 年，军方将对西岸水资源的管理权移交给了该公司。

84. Mekorot 公司提供巴勒斯坦人社区近一半的消费用水量。调查团获悉，为灌溉目的，巴勒斯坦人无法获得定居点可使用的以色列回收水而不得使用量更昂贵的饮用水。如果出现水资源短缺，就会关闭向巴勒斯坦社区供水的阀门；定居点则不会发生这种情况。

85. 调查团获悉，在有些情况下，村民不得不去几公里之外取水，而更近的水资源是为定居点提供的。定居点可享用足够的水资源，用来经营农场、果园、泳池和水疗中心，而巴勒斯坦人却难以满足最低用水需求。根据收到的证词，一些定居点每人每天消费大约 400 升水，而<sup>48</sup> 巴勒斯坦人的日人均消费量为 73 升，贝都因人社区为 10-20 升<sup>49</sup>，贝都因人社区依赖昂贵的低质量蓄水箱水。在东耶路撒冷，无许可证建筑房屋不能连接到供水网络。

<sup>47</sup> 世界银行，“West Bank and Gaza Assessment of Restrictions on Palestinian Water Sector Development”，2009 年 4 月，第 130 段。

<sup>48</sup> 卫生组织建议的最低标准为 100 升日人均消费量。

<sup>49</sup> 人道主义事务协调厅，“以色列宣布的‘射击区’的人道主义影响”(见脚注 39)。

86. 以下因素进一步加剧了水资源短缺：对行动自由的限制、对基础设施的摧毁、土地征用、强迫迁离和定居者暴力。定居者暴力在很大程度上也造成巴勒斯坦人的用水途径减少。

87. 定居者的强行接管和故意毁坏行为日益增加了用水途径障碍。根据人道主义事务协调厅，2012 年 3 月，定居点附近的 30 个泉井完全被定居者接管，26 个泉井面临风险，定居者用栅栏将其隔离并威胁村民。一些被夺取的泉井已成为“旅游景点”或娱乐场所，并得到以色列政府的支持。

88. 根据收到的证词，2010 年年初以来，以色列当局对供水基础设施包括雨水蓄水池的摧毁增加了，2012 年的毁坏行为比 2011 年增加了一倍。使用拒绝供水手段是为了迫使迁离，特别是在定居点进行扩张的预定地区。这尤其是因为，这些社区大多是农牧民，他们依靠水维持生计。一些证词强调指出，在剥夺土地用于新定居点项目之前，往往首先切断水资源。

## 8. 对经济权利的影响

89. 农业部门被视为巴勒斯坦经济发展的基石，但由于土地被剥夺和农民被阻断进入农业区、获得水资源和境内外市场的途径，而未能发挥其战略作用。这导致农业生产在国内生产总值和就业中所占份额自 1967 年以来持续下降。

90. 定居点扩张和有关基础设施的发展侵蚀了巴勒斯坦农业资产。水资源逐渐减少、高昂的交易成本和运输费用以及市场萎缩导致农用地面积下降。这种情况还造成从灌溉类作物向低利润雨水依赖作物的转变，而且，由于巴勒斯坦人被禁止向西岸进口化肥，生产率也下降了。除了当局的强拆之外，村民还遭受附近定居点的反复袭击(特别是在橄榄收获季节)、对树木、供水设施和牲畜的摧毁，这使村民承受着放弃农业活动的额外压力。

91. 隔离墙将村庄分隔开来，切断了农民与其土地和水资源的联系，阻遏了与传统市场的贸易，使地方经济受到抑制。这种情况的一个实例是 Nazelt Issa 村，为修建隔离墙，该村的一半原有企业被摧毁，其他活动也被关闭，因为该村的大部分贸易是与邻近村庄进行的，现在已被隔离墙切断了联系。由于村庄已少有创收机会而且失业率较高，年轻人离村寻找工作。

92. 从收到的证词中，调查团获悉，“以色列定居点农业正在蓬勃发展”。在约旦河谷，1960 年代和 70 年代在巴勒斯坦人曾经开垦过的土地上作为农村社区设立的定居点已发展为高科技灌溉农业区，并成为以色列枣椰树水果出口的主要贡献方。在过去十年中，西岸中部地区发展了许多农业定居点，种植橄榄并为以色列酿酒业种植葡萄。许多以色列耕地区域与巴勒斯坦人第二次起义(2000-2005 年)前开垦的土地相对应。

93. 巴勒斯坦经济没有能力扩大和提供机会、高失业率、巴勒斯坦劳动力市场工资下降、通货膨胀和贫困增加，这些因素促使巴勒斯坦人到定居点和以色列寻求就业，在这些地方，工资是巴勒斯坦私营部门的大约两倍。决定是否能在以色

列和定居点就业的严格的许可证和配额制度很易被承包商和中间人滥用。在定居点就业的巴勒斯坦人主要在制造业及建造部门工作。妇女大多从事家务工作和农业。<sup>50</sup>

94. 虽然工资可能较高，但定居点的就业条件仍不稳定。伸张权利的工人轻易被解雇，定居点以色列当局对雇主的监督基本上仍不存在。在 2011 年 6 月进行的一次审计中，国家审计长指出，“在安全和卫生领域缺乏实质性监督和执法”，甚至即使在存有和使用危险材料的工厂也是如此。审计报告指出，2006 年至 2010 年，在约旦河西岸运作的 20 个工业区/定居点，仅进行了 4 次审计。

95. 定居点巴勒斯坦工人的就业条件受一个具有法律不确定性特点的系统管辖。巴勒斯坦人签合同时依据的是十分不利的 1967 年以前的约旦劳动法，而西岸的以色列公民就业依据的是以色列劳动法。尽管以色列高等法院 2007 年裁决，以色列劳动法也适用于巴勒斯坦工人，但该裁决(虽然为当事方开启了达成其他协议的可能性)经常得不到执行。很多访谈人告诉调查团，来自交通距离很近便的许多巴勒斯坦村庄的这种“廉价劳动力”是企业迁移到定居点的另外一种动因。

### C. 企业的影响

96. 调查团收集的资料表明，企业直接和间接地促成了、便利了并受益于定居点的建设和增长。除前面提到的对巴勒斯坦工人权利的侵犯之外，调查团还提出，一些企业活动和相关问题引起特别的侵犯人权关切。其中包括：

- 供应设备和材料，为建造和扩大定居点、隔离墙以及相关基础设施提供便利
- 为定居点、隔离墙和与定居点直接相连的检查站供应监视和身份识别设备
- 供应用来拆除住房和财产以及摧毁农场、温室、橄榄林和庄稼的设备
- 向在定居点运营的企业提供安保服务、设备和材料
- 提供各种服务和公用设施，包括运输在内，为定居点的维护和存在提供支持
- 有助于建立、扩大或维持定居点及其活动的银行服务和金融业务，包括住房和企业发展贷款
- 为商业目的对自然资源的使用，特别是水资源和土地

<sup>50</sup> 国际劳工组织，“阿拉伯被占领土的工人处境”，2012 年 6 月(可在以下网址参阅：[www.ilo.org/ilc/sessions/101stsession/reports/reports-submitted/wcms\\_181071/lang—en/index.htm](http://www.ilo.org/ilc/sessions/101stsession/reports/reports-submitted/wcms_181071/lang-en/index.htm))，第 87 段。

- 在巴勒斯坦村庄内的污染和废物倾倒或向这些村庄转移废物
- 巴勒斯坦金融和经济市场的垄断状况以及不利于巴勒斯坦企业的做法，包括通过对行动自由的限制、行政和法律限制
- 使用定居者完全或部分拥有的企业的利润和再投资开发、扩大和维护定居点

97. 这些企业在定居点开展活动并促进定居点的维持、发展和巩固之时，充分了解当前状况和相关责任风险。定居点的工业园，例如 Barkan 和 Mishor Edomim，提供多项刺激措施，包括税收减免、低租金和低劳动力成本。这些区域的经济活动正在日益增长。一些银行为购房者提供抵押贷款并为定居点建设项目提供特别贷款。这些银行还向定居点企业提供金融服务；在某些情况下，这些银行在定居点设有机构。

98. 调查团注意到，一些企业已撤出定居点，因为公司形象受到损害并可能导致法律后果。

99. 调查团还注意到，以色列将所有出口产品都标上“以色列”出产的标签，包括完全或部分在定居点生产的产品。一些在定居点运营的公司被指控掩盖其产品的原产地。这种情况对希望遵守其国际和区域义务的国家造成产品可追溯性问题。这种情况对消费者的知情权也带来问题。调查团注意到，这些问题正越来越多地得到国家、区域组织和一些私营企业的处理。

## 五. 结论

100. 提请调查团注意的事实表明，1967 年以来，以色列国已完全控制了巴勒斯坦被占领土上的定居点，并继续通过基础设施和安保措施促进和维持这些定居点。调查团注意到，尽管联合国的所有有关决议都宣布定居点的存在是非法的并要求立即废止定居点，然而定居点的规划和发展仍在继续，包括现有建筑和新建筑。

101. 在西岸包括在东耶路撒冷建立的定居点(见附件二)形成网状建筑和基础设施，导致慢性蚕食，阻止了领土连续和有生存能力的巴勒斯坦国的成立，损害了巴勒斯坦人民的自决权。

102. 定居点是在违反适用于巴勒斯坦被占领土的国际人权法和国际人道主义法的情况下得到建立和发展的，国际法院在 2004 年 7 月 9 日的咨询意见中，尤其确认了这一点。

103. 定居点是为了以色列犹太人的独有利益而建立的，而且是通过一个将定居者与在巴勒斯坦被占领土上生活的其余人口完全隔离的制度加以维护和发展的。这种隔离制度是通过严格的军事和执法控制加以支持和促进的，损害了巴勒斯坦人民的权利。

104. 调查团认为，在定居点方面，以色列严重违反了它在自决权下的义务和在国际人道主义法下的某些义务，包括不将其人口转移至巴勒斯坦被占领土的义务。《罗马规约》确立了国际刑事法院对以下问题的管辖权：占领国将部分本国人口直接或间接迁移到其所占领的领土上，或将被占领土上的全部或部分人口驱逐出境或将其在该领土内部或外部迁移。巴勒斯坦对《规约》的批准可促成对粗暴践踏人权法和严重侵犯国际人道主义法行为进行问责和为受害者伸张正义。

105. 定居点的存在严重损害了巴勒斯坦人的权利。巴勒斯坦人的以下权利正遭到一贯性的和日复一日的侵犯：自由自决权、不遭歧视、行动自由、平等、适当程序、公平审判、不被任意拘留、人身自由和安全、言论自由、自由进入礼拜场所、教育、用水、住房、适足生活水准、财产、获得自然资源 and 有效补救办法。

106. 调查团收到的关于土地剥夺、逐出、拆除和流离失所等问题的大量资料表明，这些做法规模很大。这些做法在某些地区特别普遍，在东耶路撒冷尤为严重。

107. 调查团注意到，以色列当局知道对暴力和恐吓负有责任的定居者身份，但这些行为仍不受惩罚。调查团由此得出以下明确结论：在处理暴力问题方面，对巴勒斯坦人民实行了制度化歧视。调查团认为，针对巴勒斯坦人及其财产实施的这种暴力和恐吓的背后动机是，将当地居民逐离其土地并使定居点得以扩大。

108. 调查团感到严重关切的是，大量儿童被逮捕或拘留，包括由于轻微罪行。他们无例外地受到虐待，被剥夺正当程序和公平审判。他们被转移到以色列拘留中心，违反了国际法。

109. 儿童遭受骚扰和暴力，在上学方面面临重大障碍，限制了他们接受教育的权利。占领国以色列未能履行保护巴勒斯坦儿童接受教育的权利之义务，未能促进教育机构的适当运转。

110. 调查团收集的资料表明，一些私人实体直接或间接促成了、便利了并受益于定居点的建设和发展。

111. 单独在家的妇女、贝都因人及其他弱势群体很易成为定居者暴力目标，在巴勒斯坦整个社会中造成了不安全感。

## 六. 建议

112. 调查团呼吁以色列遵守《日内瓦第四公约》第 49 条，停止一切定居点活动，不带任何先决条件。此外，以色列应立即启动一个进程，将所有定居者从巴勒斯坦被占领土撤离。调查团还促请以色列，根据本国在提供有效补救方面的国际义务，确保向所有巴勒斯坦受害者提供适当、有效和迅速的补救办法，对由于定居点所造成的人权侵犯受害者所受到的伤害进行补救。在必要情况下，必须采取措施，在巴勒斯坦人的代表的同意下和在国际社会的援助下提供此种补救办法。

113. 调查团呼吁以色列停止与定居点的存在相关的侵犯人权行为。
114. 调查团呼吁以色列以非歧视性的方式确保对所有侵权行为包括对所有定居者暴力行为进行充分问责，并停止有罪不罚政策。
115. 调查团促请以色列停止任意逮捕和拘禁巴勒斯坦人，特别是儿童，并按照《日内瓦第四公约》第 76 条的规定，遵守禁止将囚犯从巴勒斯坦被占领土转移到以色列领土的禁令。
116. 调查团呼吁所有会员国遵守国际法下的义务，承担它们在与一个违反国际法强制性规范的国家的关系方面的责任，尤其是不承认由于以色列的侵权行为所产生的非法局势。
117. 私人公司必须按照国际法以及《工商企业与人权问题指导原则》的规定，评估其活动对人权的影响，并采取一切必要步骤(包括终止其在定居点的商业利益)，确保其活动不对巴勒斯坦人的人权产生不利影响。<sup>51</sup> 调查团呼吁所有会员国采取适当措施，确保在其领土上设立的和/或在其管辖下的企业，包括会员国拥有或控制的企业，在定居点开展活动或开展与定居点相关的活动时，在全部业务活动中遵守人权。调查团建议工商企业与人权问题工作组处理这一问题。

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<sup>51</sup> A/HRC/17/31, 附件。

## Annexes

### Annex I

[English only]

#### **Timeline: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem**

##### **1948**

- The “Declaration of the Establishment of the State of Israel” is issued. It equates *Eretz-Israel* (in Hebrew “the Land of Israel”) to the territory of British Mandate Palestine<sup>1</sup>, in contrast to the provisions of 1947 United Nations General Assembly Resolution 181 on the partition of the British Mandate of Palestine into two Independent Arab and Jewish States with a special international regime for the City of Jerusalem<sup>2</sup>.
- The “Israeli Proclamation” is issued. It creates a legislative authority: the Provisional Council of State, which unilaterally revokes the British Parliament Decision 6019 (the White Paper of 1939)<sup>3</sup>. The White Paper of 1939 indicates that “the terms of the (Balfour) Declaration [sic] (...) do not contemplate that Palestine as a whole should be converted into a Jewish National Home, but that such a Home should be founded IN PALESTINE.[sic] (...) His Majesty's Government (...) now declare unequivocally that it is not part of their policy that Palestine should become a Jewish State (...) Jewish immigration during the next five years will be at a rate which, if economic absorptive capacity permits, will bring the Jewish population up to (...) one third of the total population (...) some 75,000 immigrants (...) After the period of five years, no further Jewish immigration will be permitted unless the Arabs of Palestine are prepared to acquiesce in it. (...) there is now in certain areas no room for further transfers of Arab land, whilst in some other areas such transfers of land must be restricted.”<sup>4</sup>
- The Law and Administration Ordinance 5708-1948 is enacted. Article 15 indicates that: “(a) ‘Palestine’, wherever appearing in the law, shall henceforth be read as

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<sup>1</sup> The document is found on the Israeli MFA website:

<http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Establishment+of+State+of+Israel.htm>

<sup>2</sup> A/RES/181(II)[A-B]

<sup>3</sup> David M. Sassoon, “*The Israel Legal System*” in *The American Journal of Comparative Law*, Vol. 16, No. 3, Summer, 1968. Pages 405-415 (<http://www.jstor.org/stable/838665>) and Yvonne Schmidt “*Foundations of civil and political rights in Israel and the occupied territories*” Doctoral Thesis / Dissertation, 2001

<sup>4</sup> Parliament Decision 6019 was considered a British policy paper. Full original text consulted on [http://avalon.law.yale.edu/20th\\_century/brwh1939.asp](http://avalon.law.yale.edu/20th_century/brwh1939.asp)



‘Israel’”<sup>5</sup> disregarding 1947 UN Resolution 181 partitioning British Palestine into two States, Arab and Jewish<sup>6</sup>.

## 1950

- The “Absentee Property Law” 1950 enables the Israeli Government to transfer the property left behind by Palestinians after the 1948 War for the exclusive use by Israel. The Law defines any Palestinian who ‘left his ordinary place of residence’ for a place outside the nascent state as an ‘absentee’. The definition is broadly interpreted and includes Palestinians who are deemed to have been absent, even though they are present within the territory of Israel. Such persons are termed “present absentees”.

## 1965

- Planning and Building Law No. 5725 is enacted by the Knesset.<sup>7</sup> It establishes a hierarchy of planning bodies (national, regional and local) responsible for land-use planning. The law requires development plans to be prepared, approved, and kept up to date. A permit may be refused if the development conflicts with a plan; penalties for unpermitted development may include, in extreme cases, demolition<sup>8</sup> (Article 212 allows the State to demolish homes considered “a public nuisance”<sup>9</sup>). The Law is used by Israeli Governments to justify a large amount of demolitions of Palestinian houses, notably in Jerusalem after the Six-Day War.<sup>10</sup>

## 1967

- The Six-Day War. (5-10 June)
- Military Order No 59 Regarding Government Property (Judea and Samaria [West Bank]) 5727-1967 defines “State Lands” as any land belonging to an “enemy state”, or registered in its name. It authorizes the person delegated by the Commander of Israeli Defence Forces (IDF) in the Region to take possession of “enemy state’s” properties and to manage these at his discretion. The Order is used through 1979 to seize control of land registered in the name of the Jordanian Government.<sup>11</sup> (7 June)

<sup>5</sup> Law and Administration Ordinance No. 1 of 5708-1948, Full text and amendments consulted on: <http://www.geocities.com/savepalestinenow/israelaws/fulltext/lawandadministrationord.htm>

<sup>6</sup> A/RES/181(II)[A-B]

<sup>7</sup> Planning and Building Law, 5725—1965, Full text and amendments consulted on <http://www.israelawresourcecenter.org/israelaws/fulltext/planningbuildinglaw.htm>

<sup>8</sup> Amnesty International, “*Israel/Occupied Territories: Demolition and dispossession: the destruction of Palestinian homes*”, 8 December 1999

<sup>9</sup> Human Rights Watch, “Sample Judicial Demolition Order” [Translated by HRW from the Hebrew original Beer Sheva Magistrate Court BS 008759/05], March 2008 <http://www.hrw.org/reports/2008/iopt0308/15.htm>

<sup>10</sup> ICAHD submission to the Fact-Finding Mission <http://icahd.org/node/429>

<sup>11</sup> *B’Tselem*, Land Grab, 2002.

- Article 11 of the Law and Administration Ordinance is amended to indicate that: “The law, jurisdiction and administration of the State shall extend to any area of Eretz Israel designated by the Government by order.”<sup>12</sup> (27 June)
- Israel illegally annexes 70 km<sup>2</sup> of land, incorporating Palestinians living in East Jerusalem and a number of villages in the West Bank.<sup>13</sup> (27 June)
- Yigal Allon, Israeli Defence Minister and chair of the Ministerial Committee on Settlements, presents a plan to Prime Minister Levi Eshkol for the creation of “security” borders by establishing Israeli settlements on unpopulated Arab areas of the West Bank (along the Jordan Rift Valley, the expanded Jerusalem and parts of the Judean Desert). The plan is not officially approved but is subsequently implemented.<sup>14</sup> (26 July)
- Theodor Meron, legal counsel of the Foreign Ministry, provides a legal opinion on the legality of civilian settlement in the West Bank and the Gaza Strip at the request of the PM’s Office: “civilian settlement in the administered territories contravenes the explicit provisions of the Fourth Geneva Convention.”<sup>15</sup> (18 September)
- The first Israeli settlement in the OPT is established, *Kefar Ezyon*.<sup>16</sup> (September)
- The UN Security Council adopts Resolution 242 and calls for Israeli withdrawal from the Gaza Strip, the Sinai Peninsula, the Golan Heights, and the West Bank, including East Jerusalem. The Resolution emphasises the “inadmissibility of the acquisition of territory by war.”<sup>17</sup> (22 November)

## 1968

- The Jerusalem 1968 Master Plan, and subsequent plans provides for the building of a belt of 12 Israeli ‘neighbourhoods’ enveloping and bisecting the Palestinian neighbourhoods in the city.<sup>18</sup>
- The first of a series of expropriations of private land in Jerusalem takes place. The land is used to build the settlements such as *French Hill*, *Gilo*, *Pisgat Ze’ev* and *Ramot Allon*. In the great majority of known cases the owners of the expropriated land are Palestinians.<sup>19</sup>

<sup>12</sup> Amendment of 1967 to article 11 of the Law and Administration Ordinance No. 1 of 5708-1948 also available at:

<http://www.mfa.gov.il/MFA/Foreign+Relations/Israels+Foreign+Relations+since+1947/1947-1974/13+Law+and+Administration+Ordinance+-Amendment+No.htm?WBCMODE=PresentationUnp?DisplayMode=print>

<sup>13</sup> *B’Tselem*, A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem, May 1995.

<sup>14</sup> Senior Foreign Policy Analyst, Dan Diker “*Israel’s return to Security-Based Diplomacy*”, Jerusalem Center for Public Affairs, <http://www.jcpa.org/text/security/diker.pdf>

<sup>15</sup> Israel State Archives, 153.8/7921/3A. Legal opinion numbered as document 289-291, with unnumbered cover notes <http://southjerusalem.com/settlement-and-occupation-historical-documents/>

<sup>16</sup> Idith Zertal and Akiva Eldar, “Lords of the Land”, 2005.

<sup>17</sup> S/RES/242

<sup>18</sup> Eyal Weizman, *Hollow Land*. 2007

<sup>19</sup> *B’Tselem*, A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem, May 1995.

- *Kiryat Arba* settlement (the first in Hebron) is established. Ninety *dunums*<sup>20</sup> of Palestinian land are seized for “military purposes”; Palestinians are evicted, vineyards uprooted and 250 housing units for the settlement are built in their place.<sup>21</sup>
- Military Order No. 291 concerning Land and Water Settlement (Judea and Samaria) provides the basis for the suspension of land registration in the West Bank and enables tens of thousands of hectares of the West Bank to be declared “State land” making it difficult for Palestinians to obtain security of tenure or pursue land development (as proof of registration is often a first requirement), while at the same time increasing the amount of land available to build settlements.<sup>22</sup> (19 December)

## 1969

- Israeli Prime Minister Golda Meir (1969-1974) presents her basic policy guidelines to the Knesset, mirroring the 1967 *Allon Plan*’s main objective by referring to “security” civilian borders on strategic areas in the occupied territories.(15 December)

## 1971

- Military Order No 418 is issued. The order “amends” Jordanian Law No 79 of 1966 as it creates High Planning Councils (HPC) appointed by the Israeli Army Commander, dissolving the Palestinian planning committees and later establishing six regional and village HPCs in the West Bank and two in the Gaza Strip. The order transfers the authority to make all significant decisions on permits and plans in the OPT from the district level to the HPC, a body of the Israeli Army. It allows the HPCs to prepare, amend, cancel, disregard, or dispense any plan or permit and to exempt persons from obtaining the necessary license. The Military Order restricts Palestinian urban growth and limits Palestinian construction by refusing building permits and reducing the land earmarked for industrial and economic projects, thereby depriving a functioning Palestinian economy. It also allows to set aside for future use vast areas of land for settlements in the OPT.<sup>23</sup> (March)
- The UN General Assembly mandated Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories refers in 1971 to the Israeli Ministerial Committee for Settlement of the Territories and notes that “the very existence of such a committee headed by a person of ministerial rank shows, beyond doubt, that it is a policy of the Government to settle the territories occupied as a result of the hostilities of June 1967.”<sup>24</sup> (5 October)

<sup>20</sup> One *dunum* equals 1000 m2.

<sup>21</sup> Idith Zertal and Akiva Eldar, “Lords of the Land”, 2005.

<sup>22</sup> Order Regarding Government Property (Judea and Samaria)(No. 59)

<sup>23</sup> Amnesty International, “*Israel/Occupied Territories: Demolition and dispossession: the destruction of Palestinian homes*”. 8 December 1999

<sup>24</sup> A/8389

## 1974

- A group of prominent settler activists form the *Gush Emunim* movement (in Hebrew the “Bloc of the Faithful”) to advance the cause of establishing settlements throughout the West Bank.<sup>25</sup>
- Israeli Prime Minister Yitzhak Rabin’s (1974-1977) in a Cabinet Communiqué confirms the existence of a settlement policy: “Settlements in the Administered territories are established solely in accordance with the government’s decisions (...) The Prime Minister and the Minister of Defence are authorized to implement this policy.”<sup>26</sup> (26 July)

## 1977

- Thirty-one settlements have been established in the West Bank (excluding East Jerusalem), most of them within the outlines of the *Allon Plan* including in the Jordan Valley (the prime agricultural land of the West Bank), in the *Ezyon* bloc, in the southern Hebron hills and the Judean Desert. The settler population in the West Bank (excluding East Jerusalem) reaches about 4,500.<sup>27</sup> Some 50,000 Israelis live in settlements in East Jerusalem.<sup>28</sup>
- Israeli Prime Minister Menachem Begin (1977-1981) presents his basic policy guidelines to the Knesset. Paragraph 9 indicates the Government’s support for the development of Israeli settlements throughout a land that goes beyond the green line: “Settlement in Eretz Yisrael is a right as well as an integral part of the nation’s security. The Government will act to achieve the strengthening, the widening and the development of Jewish settlement...”<sup>29</sup> (20 June).
- Israeli Prime Minister Begin’s Government statement anticipates the *Droblets Plan*. It outlines the mixed high-ranking structure, involving the Government and World Zionist Organization (WZO), responsible for granting legal status to new settlements. “[N]o part of Judea and Samaria [the West Bank] should be handed over to foreign rule (...) the Ministerial Committee on Settlements, conferred legal status on three settlements in the West Bank established during the previous government’s term of office (...) The joint Government-World Zionist Organization Settlement Affairs Committee today decided to recognize *Ma’aleh Adumim*, *Ofra* and *Elon Moreh* as full-fledged settlements, and charged the settlement institutions with granting them commensurate treatment.”<sup>30</sup> (26 July)

<sup>25</sup> Idith Zertal and Akiva Eldar, “Lords of the Land”, 2005.

<sup>26</sup> Israeli Ministry of Foreign Affairs “17 Cabinet communiqué on settlements in the West Bank- 26 July 1974- and statement in the Knesset by Prime Minister Rabin- 31 July 1974, 26 Jul 1974, VOLUME 3: 1974-1977” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>27</sup> B’Tselem’s report, Land Grab, May 2002

<sup>28</sup> B’Tselem’s report, Land Grab, May 2002

<sup>29</sup> Israeli Ministry of Foreign Affairs “Basic guidelines of the government- 20 June 1977, 20 Jun 1977, Volume 4-5: 1977-1979” [www.mfa.gov.il](http://www.mfa.gov.il) The 9<sup>th</sup> paragraph of policy guidelines presented in 1977 is quoted to in the presentation of Begin’s policy guidelines in his second tenure in office on 5 August 1981.

<sup>30</sup> Israeli Ministry of Foreign Affairs “23 Government statement on recognition of three settlements- 26 July 1977, Volumes 4-5: 1977-1979” [www.mfa.gov.il](http://www.mfa.gov.il)

## 1978

- The WZO, co-member of the Ministerial Committee on Settlements, publishes the *Drobles Plan* to build settlements on the central mountain ridge around Palestinian population centres. The plan shifts away from the *Allon Plan* in that the later had focused on agricultural settlements in unpopulated Arab areas, whereas the former focuses on urban settlements which are relatively easy to set up, market and populate in the midst of populated Arab areas. (October)

## 1979

- By 1979 there are 43 settlements and 10,000 settlers in the West Bank, excluding East Jerusalem.<sup>31</sup>
- The UN Security Council adopts Resolution 446 affirming “that the Fourth Geneva (...) is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem” and determining that “the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”<sup>32</sup> The resolution also provides for the establishment of a commission to examine the situation in relation to the settlements in the occupied territories including Jerusalem, which submits a report<sup>33</sup> to the Security Council. (22 March)
- Military Order 783 5739 “Concerning the Administration of Regional Councils” is issued. The order establishes the actual area controlled by settlements which can be modified at the discretion of the Israeli Military Regional Commander “‘Area of a settlement’ – the area bearing the settlement’s name is circumscribed by a line on the map of the regional council which is signed by the regional commander (...) The regional commander has the right to alter (...) the boundaries on the map (...)”<sup>34</sup> (25 March)
- Israeli Defence Ministry, Ezer Weizman, declares that some 61,000 *dunums* had been seized for military needs since 1967, with more than 40,000 *dunums* of private land given to the establishment of settlements.<sup>35</sup>
- The High Court decision on the *Elon Moreh* case rules against the temporary seizure of land for military purposes. The testimony of retired military personnel that the land seized for the *Elon Moreh* settlement served no military purposes in addition to the testimony of the settlers themselves that they, along with the Israeli Prime Minister, saw the *Elon Moreh* settlement as a permanent settlement served to convince the High Court that the land was not legitimately seized for military purposes.<sup>36</sup> (22 October)

<sup>31</sup> Figures from Israeli Central Bureau of Statistics, *B’Tselem* Land Grab May 2002

<sup>32</sup> S/RES/446

<sup>33</sup> S/13450; S/13679

<sup>34</sup> Quoted by Hagit Ofra and Dror Etkes “And Thou Shalt Spread ...” Construction and development of settlements beyond the official limits of jurisdiction A special report presented by the “Peace Now” Settlement Watch. Jerusalem, June 2007

<sup>35</sup> Idith Zertal and Akiva Eldar, “Lords of the Land”, 2005

<sup>36</sup> *Duweikat v. Government of Israel*, H CJ 390/79, 22 October 1979 (*Elon Moreh* case)

- Israeli Prime Minister Begin, in a Cabinet communiqué on settlements which mirrors the *Drobles Plan*, confirms that the Government has been implementing settlement activities in the OPT. It also indicates the new basis (declarations of “State Land”) to continue with this endeavour after the ruling in the *Elon Moreh* case: “Settlement activities were carried out in Judea, Samaria and the Gaza region (...) the allotment of land for existing settlements or those settlements whose establishment was previously decided upon in Judea and Samaria [the West Bank] (...) *Givon* will be established partly on land belonging to state and partly on land owned by Jews, which will be purchased from its owners for this purpose (...) *Beit Horon* will be established on state lands (...) *Efrat* will be established on state lands (...) *Elkana* and *Kedumim* will be expanded by additional of state land (...) An inter-ministerial committee will be established which will examine the situation in the settlements of *Ophra* and *Kedumim*, and which will recommend solutions for their problems in the framework of government policy.”<sup>37</sup> (14 October)

## 1980

- Military Order 892 Concerning the Administration of Local Councils is issued. The order regulates the issue of larger settlements which have been awarded the status of “local councils”, and defines the manner in which the area of the council is defined at the discretion of the Israeli Army Regional Commander: (1 March)
- The UN Security Council adopts Resolution 465 which follows Resolutions 446 and 452, determining “that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention (...) and a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”<sup>38</sup> (1 March)
- Between 1980 and 1984 over 800,000 *dunums* of land is confiscated through the selective use of the Ottoman Land Law of 1858. The method is largely devised by the director of the Civil Department at the State Prosecutors Office, Plia Albek, with the backing of her superiors: Attorneys General Aharon Barak and Yitzhak Zamir (both later Supreme Court Justices)<sup>39</sup>. The West Bank was surveyed by air and on the ground to identify uncultivated land. This would then be cross checked with land records and any lands not under private ownership would be declared as State Land. The onus is placed on those liable to be injured by the declaration to appeal to a military committee within 45 days.<sup>40</sup>

## 1981

- The Defence Minister (1981-1983) Ariel Sharon prepares a plan (the *Sharon Plan*) covering areas he believes are vital for Israel's security and which should be annexed. Only a small number of enclaves densely populated by Palestinians are not

<sup>37</sup> Israeli Ministry of Foreign Affairs “50 Cabinet communiqué on settlements- 14 October 1979 VOLUME 6: 1979-1980” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>38</sup> S/RES/465

<sup>39</sup> Idith Zertal and Akiva Eldar, “Lords of the Land”, 2005

<sup>40</sup> *B'Tselem's* report, Land Grab, May 2002

considered. While the plan is not officially adopted by the government, it provides the basis for future settlements.<sup>41</sup>

- Israeli Deputy Attorney General Yehudit Karp is appointed to head a team looking at investigations and legal actions taken with regards to Israeli settler violence and intimidation in OPT. The report's findings identified: an unusually high number of files closed for reasons of "perpetrators unknown"; an indulgent and forgiving attitude from the police towards the settlers; in some cases no sincere efforts to find culprits; no questioning of witnesses; unreasonable lengths of time and a lack of sensitivity in investigations. The report observes that, "Israeli residents of the territories are given to understand that they are soldiers to all intents and purposes. [...] Israeli residents of Judea and Samaria [West Bank], explicitly relying on this assurance, refuse to cooperate with the police or provide information; they reject any contact with the police, basing themselves on 'high-level policy' and declaring that they are under no obligation to cooperate in this matter."<sup>42</sup> The report is not released by the Government of the day, only appearing in truncated form in 1984, 20 months after its submission by the Karp team.

## 1982

- Prime Minister Menachem Begin (1981-1983) presents the basic policy guidelines of his second tenure in the Government. The document largely mirrors the *Sharon Plan* and the plan to confer a permanent nature to settlements in the OPT: "any suggestion for the dismantlement or removal of any settlement in which Israeli citizens and members of the Jewish people have settled and reside, will be rejected."<sup>43</sup> (3 May)

## 1983

- The Israeli Ministry of Agriculture publishes the *Hundred Thousand Plan* aiming at building settlements in the West Bank through 2010. It includes an implementation plan 1983-1986. The plan aims at attracting 80,000 Israelis to live in 43 new Israeli settlements which would bring the total settler population to 100,000. Along with the construction of settlements, up to 450 km of new roads for settlers are to be paved.<sup>44</sup>

## 1984

- Israeli Prime Minister Shimon Peres (1984 - 1986) presents his basic policy guidelines to the Knesset in line with the *Hundred Thousand Plan*. The fourth point of the document establishes that "there will be no change in the sovereignty over

<sup>41</sup> B'Tselem's report, Land Grab, May 2002

<sup>42</sup> The Karp Commission, Report on Investigations of Suspicions Against Israelis in Judea and Samaria: Conclusions (25 May 1982)

<sup>43</sup> Israeli Ministry of Foreign Affairs "44 Statement in the Knesset by Prime Minister Begin upon the Presentation of his Second Government- 5 August 1981, 5 Aug 1981, VOLUME 7: 1981-1982" [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>44</sup> Ministry of Agriculture and the Settlement Division of the World Zionist Organization, "Master Plan for Settlement for Judea and Samaria, Development Plan for the Region for 1983-1986" (Jerusalem, April 1983)



Judea, Samaria [West Bank] and the Gaza District except with the consent of the Alignment and the Likud”. Other points include: “(A) The existence and development of settlements set up by the governments of Israel will be ensured, and the extent of their development will be determined by the government; (B) 5-6 settlements will be established within a year (...); (D) The establishment of new settlements will require approval by a majority of the cabinet ministers.”<sup>45</sup> (13 September)

## 1986

- Prime Minister Designate Yitzhak Shamir (1986 - 1988) addresses the Knesset to present the national unity Government in its second period and confirms the economic support to settlements: “the government will seek to forge a ‘Zionist Economy.’ An economy that will not be based only on solid economic principles, but also on the Zionist values which must be our guide, and among them the supreme value of settlement throughout *Eretz-Israel*.”<sup>46</sup> (20 October)

## 1988

- During the period 1988-1992, settlement activities accelerate rapidly and the number of settlements increase by more than 60% in line with the *Hundred Thousand Plan*.<sup>47</sup>
- Israeli Prime Minister Yitzhak Shamir (1988 - 1990) presents to the Knesset his basic policy guidelines, mirroring provisions of the *Hundred Thousand Plan*. Point 15 elaborates on the settlement policy as follows “The existence and development of settlements set up by the governments of Israel will be ensured. An attached appendix ... elaborates on various issues, whose execution will be agreed upon together with other issues in this framework. b. Between five and eight settlements will be established within a year. ... c. The settlements elaborated on in attached appendix will be established in subsequent years as per a timetable to be determined in an agreement between the prime minister and the vice premier, toward the conclusion of the first year. Point 20 refers to settlements as “national preferential areas” for Government support “20: The Government will assist sectors of national-social preference, including the settlement sector (within the framework of the Recovery Plan), and [will assist] the populace of development areas.”<sup>48</sup> (22 December)

<sup>45</sup> Israeli Ministry of Foreign Affairs “Basic Policy Guidelines of the Government's Program, 13 September 1984. Volume 9-10: 1984-1988” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>46</sup> Israeli Ministry of Foreign Affairs “196 Statement in the Knesset by Prime Minister Designate Shamir- 20 October 1986, Volume 9-10: 1984-1988” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>47</sup> Applied Research Institute, Jerusalem (ARIJ) “Undermining Peace: ‘Israel’s Unilateral Segregation Plans in the Occupied Palestinian Territory”” 2003.

<sup>48</sup> Israeli Ministry of Foreign Affairs “Basic Policy Guidelines of the Government's Program- 22 December 1988, Volume 11-12: 1988-1992” [www.mfa.gov.il](http://www.mfa.gov.il)



## 1992

- By 1992, following wide-scale confiscation of Palestinian land, the number of settlements had risen sharply to 120 inhabited by 100,500 settlers.<sup>49</sup>
- Israeli Prime Minister Yitzhak Rabin (1992-1995) presents to the Knesset his basic policy guidelines, revisiting the previous policy to establish new settlements in the OPT while at the same time guaranteeing the existence of settlements already established through public services' delivery, promoting the consolidation of the settlements. The revision in the establishment of new settlements is perceived in Israel as a virtual freeze on settlement expansion (13 July)
- As a result of Prime Minister Rabin's virtual freeze on settlement construction, there is a reduction in the frequency and the amount of declarations of "State Land".<sup>50</sup>
- A Committee led by Haim Klugman, director-general of the Israeli Ministry of Justice, examines the transfer of expropriated Palestinian property in East Jerusalem from the State to settler organisations like *Elad* and *Ateret Cohanim*. The report found that the Custodian for Abandoned Properties effectively served as an institution to dispossess Palestinians of their land and property.

## 1993

- The Oslo I Accords are signed. Permanent issues including Israeli settlements are deliberately left to future negotiations.<sup>51</sup> (13 September)

## 1994

- The *Shamgar* Commission report into the killing of twenty-nine Palestinian worshippers praying inside the Ibrahim Mosque (or Mosque of Abraham) at the Cave of the Patriarchs site in Hebron also reviews in general law enforcement on Israeli citizens in OPT and describes actions in this regard as "too slow, too little and too late."

## 1995

- The Oslo II Accords are signed. They divide the West Bank and Gaza into three areas, allow Palestinian election and for Israel to legally close crossing points into Israel if deemed necessary.<sup>52</sup> (28 September)
- Israeli Prime Minister Yitzhak Rabin is assassinated by a militant Israeli allegedly in retaliation for undermining the pace of Jewish settlement expansion in the OPT.<sup>53</sup> (4 November)

<sup>49</sup> Figures from Israeli Central Bureau of Statistics, *B'Tselem* Land Grab May 2002

<sup>50</sup> *B'Tselem*, By Hook and By Crook: Israeli Settlement Policy in the West Bank, 2010

<sup>51</sup> Declaration of Principles on Interim Self-Government Arrangements, The Oslo Accords Between Israel and Palestine, 13 September 1993

<sup>52</sup> The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, "Oslo 2" 28 September 1995

<sup>53</sup> *Haaretz*, "Settler rabbi: Time has come to apologize for Rabin assassination. In memorial evening in West Bank, Tekoa's Menachem Froman says: We vow not to repeat the dance of hatred. By Chaim Levinson, 7 Nov 2012

## 1996

- Prime Minister Benjamin Netanyahu (1996-1999) presents to the Knesset the basic policy guidelines of his first tenure in Government. The sixth strategic goal (out of ten) is entitled “Settlement”. Whether inside or outside Israel, settlements are identified as a national priority and, as such, recipients of preferential Government support. The document puts particular emphasis on supporting settlements beyond the green line: “1. Settlement in the Negev, the Galilee, the Golan Heights, the Jordan Valley, and in Judea, Samaria [West Bank] and Gaza is of national importance, to Israel's defense and an expression of of [sic] Zionist fulfillment. 2. The Government will alter the settlement policy, act to consolidate and develop the settlement enterprise in these areas, and allocate the resources necessary for this. The Government of Israel will safeguard its vital water supplies, from water sources on the Golan Heights and in Judea and Samaria.” (18 June)
- Settlements with no Government authorization (“outposts”) begin to be established on the hills east of *Itamar*, in *Amona* east of *Ofra* and on *Givat Hadagan* north of the settlement of *Efrat*.<sup>54</sup>

## 1998

- The Israeli Government approves Decision No, 3292, which defines certain towns and villages as National Priority Areas (NPA) “A” and “B”. Many settlements are defined as NPA “A”, which entitles them to a number of benefits in housing, a wide-ranging benefits in education as well as for industry and agriculture, grants and subsidies, indemnification for the taxes imposed on their produce by the European Union; tax levels significantly lower than those established for communities inside the Green Line, and larger balancing grants to the settlements to cover deficits.<sup>55</sup> (15 February)

## 1999

- More than 50 new settlements without Government authorization (“outposts”) are reported to have been established by the end of Prime Minister Netanyahu first tenure in Government (May).<sup>56</sup>
- Israeli Prime Minister Ehud Barak (1999-2001) presents to the Knesset his basic policy guidelines. The third strategic line (out of twelve) is entitled “Settlement” and indicates the Government support to continue developing settlements already established in the West Bank and Gaza, while indicating that no new settlements will be built: “4.1 The Government views all forms of settlement as a valued social and national enterprise (...); 4.2 Until the status of the Jewish communities in Judea, Samaria [West Bank] and Gaza is determined (...) no new communities will be built

<sup>54</sup> Peace Now, First petitions against the outposts. <http://peacenow.org.il/eng/content/first-petitions-against-outposts>

<sup>55</sup> Adalah Position Paper “On the Israeli Government’s New Decision Classifying Communities as National Priority Areas”, February 2010, Adalah - The Legal Center for the Arab Minority Rights in Israel, See also B’Tselem “By Hook and By Crook: Israeli Settlement Policy in the West Bank.” July 2010, Summary

<sup>56</sup> Peace Now, “Hayovel and Haresha - Illegal construction” HCJ 9051/05 - September 2005 <http://peacenow.org.il/eng/content/hayovel-and-haresha-illegal-construction>

and no existing communities will be detrimentally affected; 4.3 The Government will work to ensure the security of the Jewish residents in Judea, Samaria [West Bank] and Gaza, and to provide regular Government and municipal services -- equal to those offered to residents of all other communities in Israel. The Government will offer a response to the on-going development needs of existing communities. Socio-economic standards will be equally applied to all communities everywhere.”<sup>57</sup> (6 July)

## 2001

- Israeli Prime Minister Ariel Sharon (2001-2006) presents to the Knesset his basic policy guidelines. The eighth national goal (out of ten) is: “To strengthen, expand, and promote settlement throughout the country.” The settlement policy follows the same line of the prior Government: “2.9 During its term of office, the Government will not establish new settlements. The Government will provide for ongoing needs in the development of existing settlements.”<sup>58</sup> (7 March).
- Fifty one new settlements with no Government authorization (“outposts”) are reported to have been built between March 2001 and June 2004.<sup>59</sup>
- The US led Sharm El-Sheikh Fact-Finding Committee Report, known as the “Mitchell Report”, is presented. It says that “[d]uring our last visit, we observed the impact of 6,400 settlers on 140,000 Palestinians in Hebron and 6,500 settlers on over 1,100,000 Palestinians in the Gaza Strip (...) we note that many of the confrontations (...) occurred at points where Palestinians, settlers, and security forces protecting the settlers, meet (...) restrictions on the movement of people and goods in the West Bank and Gaza Strip (closures) [have resulted in the] destruction by Israeli security forces and settlers of tens of thousands of olive and fruit trees and other agricultural property. The closures have had other adverse effects, such as preventing civilians from access to urgent medical treatment and preventing students from attending school.
- The report recommends that the Government of Israel “freeze all settlement activity, including the “natural growth” of existing settlements (...); lift closures, transfer to the PA all tax revenues owed, and permit Palestinians who had been employed in Israel to return to their jobs; and should ensure that security forces and settlers refrain from the destruction of homes and roads, as well as trees and other agricultural property in Palestinian areas, [and that it] take all necessary steps to prevent acts of violence by settlers.”<sup>60</sup> (30 April)

<sup>57</sup> Israeli Ministry of Foreign Affairs “Guidelines of the Government of Israel, Basic Guidelines of the Government of Israel, Jerusalem, July 6, 1999” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>58</sup> Israeli Ministry of Foreign Affairs “Guidelines of the Government of Israel, Basic Guidelines of the Government of Israel, Jerusalem, March 7, 2001” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>59</sup> Foundation for Middle East Peace, “Settlement Outposts Continue to Thrive under Sharon Administration”, Settlement Report, Vol. 14 No. 4, July-August 2004

<sup>60</sup> Sharm El-Sheikh Fact-Finding Committee Report “Mitchell Report” April 30, 2001. By Suleyman Demirel, Thorbjørn Jagland, Warren B. Rudman, Javier Solana and George J Mitchell (Chairman).

**2002**

- The total reported number of settlements built with no Government authorization (“outposts”) increases to 93.<sup>61</sup> (July).

**2003**

- The basic policy guidelines in the second tenure of Prime Minister Ariel Sharon (2003-2006) remain the same. The eighth national goal (out of ten) continues to refer to the strengthening, expansion and promotion of settlements throughout the country, with the Government support to continue developing established settlements and its aim of not establishing new settlements.<sup>62</sup> (28 February)

**2004**

- International Court of Justice issues its Advisory Opinion on the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory. (9 July)

**2005**

- The Office of the Prime Minister’s report (Sason report) on “unauthorized outposts” describes them as a “continuation of the settlement enterprise in the territories.” The report documents the active participation of the Government in the promotion and expansion of settlements up to 1992 and accounts for the “unofficial” continuation of such involvement between 1992 and 2005, including land confiscation and illegal construction with the “unauthorized aid” of the Ministry of Housing and the WZO, as well as “overlooking” and “actual encouragement and support” by the political echelon. The report concludes that “unauthorized outposts violate[s] standard procedure, good governing rules (...) endanger the principal of the rule of law [and thus] urgent measures must be taken to change [this] reality”.<sup>63</sup> (8 March)
- In accordance with the “Disengagement Plan”, 9,480 Jewish settlers from 21 settlements in Gaza and four settlements in the northern West Bank are evacuated. (16 – 30 August)

**2009**

- Israeli media unveils the Baruch Spiegel “secret database” of Israeli settlements in the OPT, a project developed by the Israeli Ministry of Defence. The database provides details on location and population size of the settlements; status of ownership of the land including details on over 30 settlements that were to some extent built on private Palestinian land; construction violating planning regimes and building permit requirements; details on authorisation agreements between the State and those building settlements. (February)

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<sup>61</sup> Peace Now, First petitions against the outposts. <http://peacenow.org.il/eng/content/first-petitions-against-outposts>

<sup>62</sup> Israeli Ministry of Foreign Affairs “Basic Guidelines of the 30th Government of Israel, 28 Feb 2003” [www.mfa.gov.il](http://www.mfa.gov.il)

<sup>63</sup> Talya Sason, *Summary of the Opinion Concerning Unauthorized Outposts*, Israeli Prime Minister’s Office, Communications Department, 8 March 2005.

- The Knesset enacts the “Economic Arrangements Law” with an additional section entitled the “National Priority Areas” to apply to settlements in the OPT. (14 July)
- Israel announces a ten-month moratorium on settlement activity (up to September 2010). The moratorium is in effect a partial freeze on approval of new construction. It excludes East Jerusalem and “natural growth” in existing settlements, which grow three times as fast as “natural growth” in Israel. (November)
- The Government approves Decision No. 1060 “Defining Towns and Areas with National Priority”, following request of additional time to implement the Supreme Court rulings HCJ 2773/98 and HCJ 11163/0 on 1998 decision on National Priority Areas (NPAs). The new decision falls under the new “Economic Arrangements Law” and classifies various settlements in the OPT as NPAs further designating settlements under the criterion of “level of security threat.” In addition, every settlement in the OPT defined as a NPA is also entitled to receive on an individual basis the associated additional budgetary grants and benefits in fields to be defined by ministers. In contrast, towns and villages located within the Green Line and also defined as NPAs receive smaller benefits at the district and regional level only.<sup>64</sup> (13 December)

## 2010

- Israel joins the Organisation for Economic Co-operation and Development (OECD). During the discussions of accession, Israel indicates that the Government applies the investment incentives under 1984 Law of Encouragement of Capital Investment (which is also reported as not covering the OPT) to certain industrial areas in the West Bank. Israel indicates that foreign-owned enterprises may be established in those areas of the West Bank and are eligible for grants under that Law.<sup>65</sup> (10 May)

## 2011

- A letter signed by 38 members of the Knesset (out of 120 members) is addressed to Israeli Prime Minister Netanyahu. The letter refers to orders to “demolish tens or hundreds of (...) outposts in Judea and Samaria [the West Bank]” and indicates that “[t]his directive must be changed”. The letter further stresses that “we should openly declare that Judea and Samaria are ours”.<sup>66</sup> (11 October)

## 2012

- Israeli Government retroactively legalises three outposts. (April)
- The findings of the Levy Committee, established to investigate the legal status of the unauthorized settlements in the West Bank (“outposts”), are published. The report documents that settlements built with no formal Government authorization were

<sup>64</sup> Adalah Position Paper “On the Israeli Government’s New Decision Classifying Communities as National Priority Areas”, February 2010, Adalah - The Legal Center for the Arab Minority Rights in Israel

<sup>65</sup> OECD “Accession of Israel to the OECD: Review of international investment policies” <http://www.oecd.org/israel/49864025.pdf>

<sup>66</sup> Foundation for Middle East Peace “MKs to Bibi - Keep the Outposts” Settlement Report, Vol. 21 No. 6, November-December 2011

established with the knowledge, encouragement and tacit agreement of Government Ministers, including the Prime Minister, public authorities, the Civil Administration and the regional councils. It goes on to recommend, that given the real true will of the Israeli Government was to establish outposts, it should therefore legalise them. No in-depth analysis is made on the methods used to establish the so-called unauthorized outposts and no reference to the 2.5 million Palestinian living in the West Bank is included.<sup>67</sup> (9 July)

- The Judea and Samaria Council for Higher Education grants for the first time a full-fledged University recognition to a Centre located beyond the green line, Ariel University Centre, despite opposition by the planning and budget committee of the State's Council for Higher Education<sup>68</sup>. The University is open to all Israeli citizens, including Arab-Israelis but closed to Palestinians residing in the West Bank.<sup>69</sup> (17 July)
- The UN General Assembly votes for Palestine to become a non-member state with observer status. (29 November)
- PM Netanyahu authorises the building of 3,000 new housing units in East Jerusalem and the West Bank. (30 November)
- In analysis of building in settlements for the year 2012, it was revealed that plans for 6,676 residential units were approved in 2012<sup>70</sup>. This represents an increase from 1,607 housing units approved for construction in 2011 and the several hundred housing units approved in 2010. Among the housing construction plans approved were 3,500 residential units intended for the E-1 corridor, 523 for the new settlement of *Gevaot* and more than 500 in *Itamar*. Construction began on 1,747 housing units in West Bank settlements last year, the Peace Now report also says. More than a third of the construction in the settlements was east of the West Bank separation fence, according to the report. Four new outposts went up in 2012: *Nahlei Tal* near the Palestinian city of Ramallah, *Tzofin Tzafon* (*Tzofin North*) near the Palestinian city of Qalqilyah, *Nahalat Yosef* near Nablus and Hill 573 as part of an expansion of the *Itamar* settlement. Altogether, 317 new housing units were built in settlement outposts without building permits, which is against the law.<sup>71</sup>

<sup>67</sup> B'Tselem, "Levy Committee Report: Where are the Palestinians?" 11 July 2012.

<sup>68</sup> Haaretz, "Ariel academic center recognized as first Israeli university beyond Green Line. Decision on West Bank campus made despite opposition by Israel's Council for Higher Education." By Talila Neshet, 17 July 2012

<sup>69</sup> <http://digitaljournal.com/article/328824#ixzz2DhMH1Jcf> and <http://www.bbc.co.uk/news/world-middle-east-18879786>

<sup>70</sup> Peace Now "Summary of Year 2012 in Settlements" report.

<sup>71</sup> Haaretz, "Approval for settlement plans jumped 300% in 2012, says Peace Now." By Chaim Levinson, 16 January 2013

## Annex II

[English only]

